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GIFT OF

CITY OF BOSTON

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PART I.

THE CITY CHARTER.

TITLE I.—OF THE CORPORATE POWERS AND TERRITORIAL LIMITS OF THE CITY OF BOSTON, ITS DIVISION INTO WARDS AND PRECINCTS, AND THE COMPOSITION OF THE CITY GOVERNMENT.

Chapter 1.—Of the Territorial Limits of the City of Boston, of its Corporate Powers, of General Meetings of its Citizens, of its Division into Wards and Precincts and of Actions by and against it.

Chapter 2.—Of the Composition of the City Government.

TITLE II.—OF THE EXECUTIVE DEPARTMENT.

Chapter 3.—The Mayor.

TITLE III.—OF THE LEGISLATIVE DEPARTMENT.

Chapter 4.—The Board of Aldermen.

Chapter 5.—The Common Council.

Chapter 6.—The City Council.

TITLE IV.—OF ADMINISTRATIVE OFFICERS AND DEPARTMENTS.

Chapter

- 7.—General Provisions relative to Officers and Departments.
- 8.—The City Clerk.
- 9.—The City Treasurer, and Matters of Finance.
- 10.—The City Collector.
- 11.—The Art Commission.
- 12.—The Assessing Department.
- 13.—The Building Department.
- 14.—The Cemetery Trustees.
- 15.—The Children's Institutions Department.
- 16.—The Election Department.
- 17.—The Engineering Department.
- 18.—The Fire Commissioner.

Chapter

- 19.—The Health Department.
 - 20.—The Hospital Department.
 - 21.—The Insane Hospital Department.
 - 22.—The Institutions Registration Department.
 - 23.—The Library Department.
 - 24.—The Park Commissioners.
 - 25.—The Pauper Institutions Trustees.
 - 26.—The Penal Institutions Commissioner.
 - 27.—The Poor Department.
 - 28.—The Registry Department.
 - 29.—The Soldiers' Relief Department.
 - 30.—Streets.
 - 31.—The Water Department.
 - 32.—The Wire Department.
-

TITLE V.—PUBLIC SCHOOLS.

Chapter 33.—The Public Schools.

PART II.

THE ADMINISTRATION OF MUNICIPAL BUSINESS.

Chapter

- 34. — The Art Department.
- 35. — Bridges and Ferries.
- 36. — Building Laws.
- 37. — Cemeteries.
- 38. — County Finances and Constables.
- 39. — Fire Department.
- 40. — The Supervision of Gas Fitting and Gas Fitters.
- 41. — Harbor Regulations.
- 42. — Health Regulations.
- 43. — Insane Persons and their Care and Treatment.

Chapter

- 44. — Markets.
- 45. — Parks and Public Grounds.
- 46. — Penal and Reformatory Institutions.
- 47. — Police Regulations.
- 48. — Schools and School Teachers.
- 49. — Sewers and Drains.
- 50. — Sidewalks.
- 51. — Streets and Ways.
- 52. — Wires and Electrical Apparatus.

PART III.

THE POLICE DEPARTMENT.

- Chapter 53. — The Police Commissioner.
 - Chapter 54. — The Administration of Police.
 - Chapter 55. — The Licensing Board.
-

PART IV.

SUPPLEMENT CONTAINING THE ACTS CONCERNING THE METROPOLITAN DISTRICT AND THE TRANSIT ACTS.

- I. — The Metropolitan Parks Acts.
- II. — The Metropolitan Sewerage Acts.
- III. — The Metropolitan Water Acts.
- IV. — The Transit Acts.

THE CONSOLIDATED STATUTES

RELATING TO THE
CITY OF BOSTON.

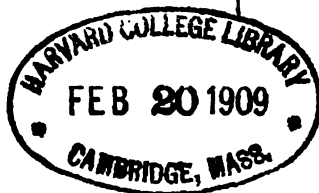
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— CORPORATION COUNSEL,
BY ORDER OF THE CITY COUNCIL.



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City of Boston

PREFACE.

This consolidation was prepared in accordance with the following order, approved in February, 1907 :

“ Ordered, That the Corporation Counsel be instructed to prepare, or cause to be prepared, a consolidation or revision of all of the special acts relating to the city, omitting such as have become obsolete, and to report a draft thereof to the City Council of this year, if possible, such draft to be as nearly as possible a codification of existing laws, and to contain only such changes in the same as shall be specifically noted, and as the Corporation Counsel may deem necessary or proper ; and the Corporation Counsel is hereby authorized to expend for such purpose out of the appropriation for the Law Department a sum not exceeding \$10,000.”

After the reception of the order I was fortunately able to secure the assistance of Charles N. Harris, Esq., one of the commissioners who prepared the Revised Laws of Massachusetts, and he has done most of the work of codification.

The arrangement adopted by us was to divide the consolidation into four parts : Part I., The City Charter, that is, the grants or privileges conferred upon the inhabitants of Boston by the Legislature ; Part II., The Administration of Municipal Business, containing the special acts directing how the work of the different departments shall be carried on in the City of Boston ; Part III., The Police Department, containing the laws concerning that department ; Part IV., Supplement, containing the acts concerning the Metropolitan Districts and the Transit Acts.

The third and fourth parts of the consolidation are not in any sense parts of the City Charter, but they contain matters of great interest to the City of Boston and to its inhabitants, who have to pay the bills, and who own or have an interest in the property acquired or secured by the Metropolitan and Transit Commissions.

Great pains have been taken in making this consolidation to avoid any change in the law as it exists at the present time, and I believe that that result has been substantially accomplished.

Being unable on account of the pressure of the duties of my office to devote much of the day time to this consolidation, a great deal of the work, as far as I was concerned, had to be done after office hours, and for many months I spent from two to three evenings a week going over Mr. Harris' work with him in order to make sure of its accuracy.

The boundaries of Boston were prepared by Mr. Whitney, head of the Surveying Division, and I think it is the first time that the boundaries of the city have been put into such form as to be accessible to the public.

No index has been prepared for the codification, but the arrangement throughout the first three parts is alphabetical, and the tables of contents of chapters are so copious that I think there will be no difficulty in finding the statutes in which persons are interested.

The marginal notes are quite full, and from them can be ascertained the source of the matter appearing in the codification.

For various reasons the legislation of 1908 affecting the city has not been included in the volume. Although there are many propositions to amend or change the City Charter, yet until such changes or amendments have been made it will be of great convenience to the heads of departments, and to all persons transacting any business with the city, to have the legislation affecting the City of Boston down to January, 1908, codified and placed in one volume.

THOMAS M. BABSON,
Corporation Counsel.

PART I.

THE CITY CHARTER.

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CHAPTER 1.—Of the Territorial Limits of the City of Boston, of its Corporate Powers, of General Meetings of its Citizens, of its Division into Wards and Precincts and of Actions by and against it.

CHAPTER 2.—Composition of the City Government.

CHAPTER 1.

OF THE TERRITORIAL LIMITS OF THE CITY OF BOSTON, OF ITS CORPORATE POWERS, OF GENERAL MEETINGS OF ITS CITIZENS, OF ITS DIVISION INTO WARDS AND PRECINCTS AND OF ACTIONS BY AND AGAINST IT.

TERRITORIAL LIMITS AND CORPORATE POWERS OF THE CITY.

SECTION

1. Territory and corporate powers of Boston.
2. Property rights in annexed property.
3. Boundaries of Boston.

MEETINGS.

4. Annual meeting for election of city officers.
5. Calling of meetings for elections.
6. General meetings of the citizens.
7. Proceedings if aldermen refuse to call meeting.

DIVISION INTO WARDS AND PRECINCTS.

SECTION

8. Division into wards.
9. Division of wards into voting precincts.

ACTIONS BY AND AGAINST THE CITY.

10. Venue of transitory actions by or against the city.
11. —of actions for defective highways.
12. Removal of actions from County of Suffolk.

TERRITORIAL LIMITS AND CORPORATE POWERS OF THE CITY.

SECTION 1. The inhabitants of the territory which, on the fourth day of March in the year eighteen hundred and twenty-two, was comprised within the limits of the municipal corporation then known as the town of Boston, and which, on said day, became the territory of the city of Boston, and the inhabitants of the territory subsequently annexed, as hereinafter described, are, and shall continue to be, one body politic, in fact

Territory and corporate powers of Boston.
1821, 110, § 1.
1831, 448, § 1.
1 Pick. 375.
1 Met. 473.
171 Mass. 588.
591.

and in name, under the style and denomination of THE CITY OF BOSTON: and, as such, shall have, exercise and enjoy all the rights, immunities, powers and privileges, and shall be subject to all the duties and obligations now incumbent upon, and appertaining to, said city as a municipal corporation. Such annexed territory consists of

Roxbury.
1867, 350, § 1.

Clause 1. All the territory formerly comprising the city of Roxbury in the county of Norfolk.

Dorchester.
1846, 111.
1834, 102.
1869, 349, § 1.

Clause 2. All the territory formerly comprising the town of Dorchester in said county. Thompson's Island shall be exempt from taxation so long as it shall be appropriated to the use of the Farm and Trade School, or to any public charity.

West Roxbury.
1872, 197.
1873, 314, § 1.
Charlestown.
1873, 286, § 1.

Clause 3. All the territory formerly comprising the town of West Roxbury in said county.

Clause 4. All the territory formerly comprising the city of Charlestown in the county of Middlesex.

Brighton.
1873, 306, § 1.

Clause 5. All the territory formerly comprising the town of Brighton in said county.

Brookline.
1870, 374, §§ 1, 2.
1874, 220, §§ 1, 7.

Clause 6. All the territory formerly in the town of Brookline, in the county of Norfolk, situated northerly of the southerly line of Brighton avenue, and that part of said town of Brookline contained within the line described as follows: beginning at a point in the centre of the channel of Charles river on the boundary line between the town of Brookline and the city of Cambridge where the westerly line of St. Mary's street, in the town of Brookline, extended in a northerly direction would intersect the said boundary line; thence running southwardly by the westerly line of said St. Mary's street extended to the southerly line of Brighton avenue; thence continuing in the same direction by the westerly line of St. Mary's street to the northerly line of Ivy street; thence turning a little and running southeasterly by the southwesterly line of St. Mary's street, and by the continuation of the same to the boundary line between Boston and Brookline in the centre of the channel of Muddy river; thence easterly following said boundary line to the present boundary line in the centre of the channel of Charles river; thence by the centre of said channel of Charles river to the point of beginning. All paupers who may have gained a settlement in said town of Brookline by a settlement gained or derived within said last named territory shall be relieved or supported by the city of Boston in the same manner as if they had a legal settlement therein. But the provisions of this section shall not be construed to divest or deprive the town of Brookline of any legal rights of drainage which it possessed on the fourth day of November in the year eighteen hundred and seventy or on the eighth day of May in the year eighteen hundred and seventy-four, nor of any power or authority conferred upon it by chapter seventy-one of the acts of the year eighteen hundred and sixty-seven.

Property
rights in an-
nexed terri.

SECT. 2. All the public property formerly belonging to the cities of Charlestown and Roxbury, and the towns of Brighton,

Dorchester and West Roxbury, shall continue to be vested in, and remain the property of, the city of Boston, and said city shall succeed to all the rights, claims, uses, trusts, duties, privileges and immunities of said cities and towns, and shall be liable for, and subject to, all the debts, obligations, duties, responsibilities and liabilities of said cities and towns.

SECT. 3. The boundaries of the city of Boston are as follows:—

Beginning at the corner of Boston, Chelsea and Everett, an unmarked point in the centre line of the channel of Mystic river at a point where the centre line of the channel of Island End river intersects the same, being about two thousand four hundred feet up-stream from the northerly draw of Chelsea bridge; thence easterly and northerly along the centre line of the channels of Mystic river and Chelsea creek, about thirteen thousand eight hundred feet to the corner of Boston, Chelsea and Revere, an unmarked point in the centre line of the channel of Chelsea creek, at its intersection with the centre line of the channel of Belle Isle inlet; thence southeasterly along the centre of Belle Isle inlet to the corner of Boston, Revere and Winthrop, an unmarked point in the centre line of the channel of Belle Isle inlet, at its intersection with the centre line of Short-beach creek; thence southwesterly along the centre of Belle Isle inlet to corner one, an unmarked point in the centre of the water space at the mouth of Belle Isle inlet, about four hundred thirty feet south of Saratoga-street bridge, at the beginning of the tide-water boundary; thence running south, a little westerly, to the central point in the water space between the mainland of said town of Winthrop and Breed's island; thence southwesterly to the central point in the water space between the mainland of said city of Boston and the mainland of said town of Winthrop; thence south, a little westerly, to the central point in the water space between the mainland of said city of Boston, Governor's island and the mainland of said town of Winthrop at Chelsea point; thence easterly to the central point in the water space between Apple island and the mainland of said town of Winthrop near Pulling point; thence east, a little southerly, to the central point in the water space between Apple island and Snake island; thence southeasterly to the central point in the water space between Apple island, Snake island and the mainland of said town of Winthrop; thence southeasterly, more easterly, to the central point in the water space between the northwesterly point of Deer island and the mainland of said town of Winthrop at Shirley gut; thence northeasterly to the central point in the water space between Winthrop head in said town of Winthrop and the northerly shore of Deer island; thence northeasterly, more easterly, to the central point in the water space between said Winthrop head, said northerly shore of Deer island and Great Fawn beacon; thence north seventy-five degrees thirty minutes east to a point in the exterior line of the commonwealth; thence

tory.
1867, 359, 6 2.
1869, 340, 8 2.
1873, 286, 2 2.
1873, 303, 2 2.
1873, 314, 2 2.

Boundaries of
Boston.

Boundary
between
Boston and
Chelsea.
1733-39, 17.

— between
Boston and
Revere.
133 Mass. 372.

— between
Boston and
Winthrop.
1852-53.

— between
Boston and
Hull.
157 Mass. 60.

— between
Boston and
Quincy.
1819, 124.
1856, 267.

southeasterly by said exterior line to a point marked V, on plan made by the harbor and land commissioners: thence southwesterly by said exterior line to a point marked U, on said plan, said point being the common terminal point between the city of Boston and the town of Hull; thence south seventy-four degrees thirty minutes west to the central point in water space between Boston light and the northeasterly headland of said town of Hull near Point Allerton; thence westerly to the central point in the water space between the mainland of said town of Hull and the Great Brewster island; thence southwesterly to the central point in the water space between the Beacon at Narrows light, the mainland of said town of Hull and George's island; thence still southwesterly to the central point in the water space between Peddock's island, George's island and Windmill point; thence west, a little northerly, to the central point in the water space between Rainsford island, Peddock's island and George's island; thence southwesterly to the central point in the water space between Peddock's island and Rainsford island; thence west, a little southerly, to an unmarked point in the water space between Rainsford island, Peddock's island and Hangman's island, said point being also the common terminal point of the boundary line in tide-water between said city of Boston and the city of Quincy, and between said town of Hull and said city of Quincy; thence west, a little northerly, to the central point in the water space between Moon island, Long island and Hangman's island; thence northwesterly, more northerly, to the central point in the water space between Long island and Moon island; thence northwesterly to the central point in the water space between Thompson's island, Spectacle island, Long island and Moon island; thence west, a little southerly, to the central point in the water space between Thompson's island and Moon island; thence southwesterly, more southerly, to the central point in the last named water space; thence southwesterly to the central point in the water space between Thompson's island and the mainland of said city of Quincy, at Squantum; thence west, a little northerly, to the central point in the last named water space; thence west, a little southerly, to the central point in the water space between Thompson's island and the mainland of said city of Quincy; thence northwesterly to the central point in the water space between Old Harbor point, Thompson's island and the mainland of said city of Quincy; thence southwesterly to corner one, an unmarked point, at the central point in the water space at the mouth of Neponset river, said point being the common terminal point between said city of Boston and said city of Quincy; thence southwesterly along the thread of the channel of said Neponset river to the corner of Boston, Milton and Quincy, an unmarked point, in the channel of said Neponset river, north five degrees fifty-nine minutes west and seven hundred fifty feet distant from the witness mark, a granite monument, marked Q M, and standing on the summit of a wooded

ridge, about five hundred seventy-five feet from the outer end of "Stone Wharf"; thence southwesterly and westerly along the thread of said Neponset river about nineteen thousand feet to the corner of Boston, Hyde Park and Milton, an unmarked point in the centre of the channel of said Neponset river, one hundred eighty-five feet northeast of the point where Mattakeesett street intersects the river and about one thousand six hundred feet southwest of Mattapan bridge, being south forty-two degrees four minutes east and about seventy-five feet distant from the witness mark, a granite monument, marked $B \frac{H}{P}$, and standing on the left bank of the river, about fifteen feet from high-water mark; thence north forty-two degrees four minutes west, seventy-five feet to the witness mark above described; thence in the same direction six thousand nine feet to corner one, a dressed granite monument, marked $B \frac{H}{P}$, and situated on high land, in woodland, eighty-five feet south of the southerly corner of a two-story house and one hundred twenty-five feet southwest of Ashland street, near Calvary cemetery; thence north fifty-five degrees twenty-seven minutes west, six hundred eighty-nine feet to corner two, a dressed granite monument, marked $H \frac{H}{P}$, and situated on the westerly slope of a wooded hill, one hundred twenty-five feet southwest of Ashland street, opposite Calvary cemetery, at a point about eight hundred fifty feet southeast of its intersection with Canterbury street; thence north forty-two degrees fifty-one minutes west, two hundred sixty-three feet to corner three, a dressed granite monument, marked $H \frac{H}{P} B$, and situated in low woodland, one hundred twenty-six feet southwest of Ashland street, twelve feet south of an angle in a stone wall and opposite Calvary cemetery; thence south fifty-five degrees twenty-six minutes west, one thousand six hundred fifteen feet to corner four, a granite monument marked $R \frac{H}{P} B$, and situated on the northwesterly side

— between
Boston and
Milton.

— between
Boston and
Hyde Park.
1868, 189, 167.
1898, 261.

of Hyde Park avenue about one thousand four hundred fifty feet south of its junction with Canterbury street in West Roxbury; thence south fifty-five degrees forty minutes west, ten thousand five hundred ninety-four feet to the corner of Boston, Dedham and Hyde Park, a granite monument, marked $D \frac{D}{B} \frac{H}{P}$

and situated at the junction of a fence and masonry wall forming the easterly side of the Jewish cemetery in German-town; thence south fifty-five degrees thirty-nine minutes west, two thousand fifty-nine feet to corner one, a rough, irregularly shaped granite monument, marked $D \frac{W}{R}$, situated in an open pasture, seven feet south of the southerly corner of woodland on the westerly slope of an elevation, at the most southerly point of the city of Boston; thence north forty-two degrees thirty-seven minutes west, one thousand nine hundred fifty-two feet to corner two, a granite monument, marked $B D$, standing against the easterly side of a face wall on the westerly side of Centre street, the easterly side of the Jewish cemetery; thence north forty-three degrees thirteen minutes west, five hundred forty

— between
Boston and
Dedham.

six feet to corner three, a granite monument, marked B D, situated on the easterly slope of a wooded ridge, about four hundred feet northwest of Centre street, on or near land formerly belonging to the Shuttleworth estate; thence north forty-three degrees three minutes west, one thousand six hundred twenty-two feet to corner four, witness mark, a rough stone monument, marked B D, situated in a low meadow near a small ditch, about four hundred feet westerly from a point where the ditch crosses the Dedham branch of the New York, New Haven & Hartford Railroad; thence in the same direction about nine hundred fifty feet to corner four, an unmarked point in the channel of Charles river, a little south of the grounds owned by the Caledonian Club; thence in a general northwesterly direction along the channel of Charles river, to the corner of Boston, Dedham and Needham, an unmarked point in the centre line of the channel of Charles river where it is intersected by the centre line of Long ditch produced northeasterly, said ditch marking a portion of the line between the towns of Dedham and Needham; thence continuing northwesterly along the centre of the channel of Charles river about one thousand three hundred feet to the corner of Boston, Needham and Newton, an unmarked point in the centre of the channel of Charles river south thirty-eight degrees forty-six minutes west (true bearing), and about one hundred thirty feet distant from the witness mark on the easterly bank of the river, a roughly dressed stone monument, marked B N, and standing about ten feet from the shore of the river, on land belonging to the Brookline Water Works; thence north thirty-eight degrees forty-six minutes east, about one hundred thirty feet to the witness mark last described; thence continuing in the same direction five thousand three hundred twelve feet to corner twenty, a granite monument marked B N, and situated on the northeasterly side of Baker street in Boston, or Dedham street in Newton, at a point about nine hundred feet southeast of the junction of Oak Hill street with Dedham street in Newton, thence north forty-eight degrees thirty minutes east, five thousand sixty-nine feet to the southerly corner of Boston, Brookline and Newton, a rough, irregularly shaped granite monument, marked $\begin{smallmatrix} N & B & B \\ N & O & R \end{smallmatrix}$, and standing against the westerly side of a stone wall dividing woodland on the east from cultivated land on the west and six hundred twenty-five feet southeast of the roadstone on the westerly side of La Grange street; thence south forty-five degrees two minutes east, four thousand seven hundred sixty-six feet to corner one hundred, a granite monument marked $\begin{smallmatrix} B & R \\ O & R \end{smallmatrix}$, situated in low cultivated land on the Weld farm meadow south of the golf links; thence north fifty-five degrees three minutes east, five hundred seventy-eight feet to corner ninety-nine, a granite monument marked $\begin{smallmatrix} B & R \\ O & R \end{smallmatrix}$, standing against the easterly side of a stone wall on the westerly side of Church street in Boston, or South street in Brookline, at a point about eight hundred fifty feet north of the intersection of Church and Weld streets in

— between
Boston and
Needham.

— between
Boston and
Newton (the
southerly or
West Roxbury
portion).
1886, 117.

— between
Boston and
Brookline.
1825, 90, 128.
1872, 267.
1890, 339.
1894, 242, 485.

Boston; thence north fifty-five degrees twenty-five minutes east, one thousand one hundred forty-three feet to corner ninety-eight, a rough granite monument marked $\frac{B}{O} \frac{B}{R}$, situated at the northerly side of a cultivated field, in a stone wall; thence north forty-five degrees fifty minutes east, two thousand five hundred sixty feet to corner ninety-seven, a granite monument, marked $\frac{B}{O} \frac{B}{R}$, standing against the southwesterly side of a stone wall on the northeasterly side of Allandale street, in front of the estate of Mrs. Charles F. Sprague; thence north thirty-three degrees thirty minutes east, one thousand seven hundred sixty-two feet to corner ninety-six, a granite monument, marked $\frac{B}{O} \frac{B}{R}$, situated on the easterly side of Mt. Walley avenue, Brookline, near a masonry post five feet in height, three feet by three feet in section, standing at a point one thousand two hundred feet south of the junction of Mt. Walley avenue with Pond street in Boston, or Newton street in Brookline; thence north twenty-seven degrees forty minutes east, one thousand one hundred ninety-four feet to corner ninety-five, a granite monument, marked $\frac{B}{O} \frac{B}{R}$, situated at the easterly corner of Mt. Walley avenue and Pond street, Boston, called Newton street in Brookline, being four and five-tenths feet north of the face of a curved wall; thence north twenty-four degrees forty-three minutes east, one thousand seventy-one feet to corner ninety-four, a granite monument, marked $\frac{B}{O} \frac{B}{R}$, situated on the easterly side of Avon street, opposite the entrance to the estate of Larz Anderson; thence north twenty-six degrees seventeen minutes east, five hundred seventy feet to corner ninety-three, a granite monument, marked BO BR, situated on the southeast side of a private way leading from Rockwood street to Avon street, at the end of a stone wall and twenty-four feet north of the northerly corner of the dwelling-house or lodge at the entrance to the estate of R. S. Stearns; thence north thirty-three degrees fifty-five minutes east, six hundred eight feet to corner ninety-two, an old oak tree about two feet in diameter, marked $\frac{B}{O} \frac{B}{R}$, situated on the northeasterly side of Rockwood street, opposite the junction of a private way leading southwesterly to Avon street; thence north thirty-one degrees forty-eight minutes east, nine hundred sixty-four feet to corner ninety-one, a granite monument marked $\frac{B}{O} \frac{B}{R}$, situated on the estate of Dr. C. G. Weld east of Goddard avenue, Brookline; thence north thirty-two degrees thirty-eight minutes east, seven hundred ninety-seven feet to corner ninety, a granite monument, marked $\frac{B}{O} \frac{B}{R}$, situated on the northerly side of Perkins street in Boston, or Cottage street in Brookline; thence north thirty-three degrees thirty-seven minutes east, one thousand three hundred ninety-nine feet to corner eighty-nine, a granite monument, marked $\frac{B}{O} \frac{B}{R}$, situated on the southerly slope of a wooded elevation on the estate of Henrietta S. Sargent, about eighty-five feet west of the southwest corner of the greenhouse; thence north twenty-five degrees forty-six minutes east, three hundred fifty-one feet

to corner eighty-eight, a granite monument, marked $\frac{B}{O} \frac{B}{R}$, situated in woodland, on the easterly slope of an elevation, near an angle in a fence; thence south sixty degrees forty-four minutes east, one hundred seven feet to corner eighty-seven, a granite monument, marked $\frac{B}{O} \frac{B}{R}$, situated in a garden on the estate of Quincy A. Shaw, about two hundred feet northeast of the greenhouse; thence north forty-six degrees nine minutes east, six hundred ninety feet to corner eighty-six, a granite monument, marked $\frac{B}{O} \frac{B}{R}$, standing at the northeasterly corner of a cultivated field, at a point in the southerly line of Chestnut street, seventy-five feet east of its junction with High street in Brookline; thence southeasterly along the southerly side of Chestnut street about five hundred fifty-seven feet to corner eighty-five, a dressed granite monument with squared top, marked $\frac{B}{B} \frac{O}{R}$, set flush with the surface of the ground, at the junction of the southerly line of Chestnut street with the westerly line of Pond avenue; thence along the old channel of Muddy river to corner twenty-nine, by the following courses and distances, as defined by chapter three hundred thirty-nine of the acts of the year eighteen hundred ninety, viz.: south eighty-five degrees fifty-one minutes seven seconds east (found to be south eighty-one degrees thirty-six minutes east), one hundred seventy-two and seventy one-hundredths feet to corner eighty-four, a dressed granite monument marked BO BR, and set flush with the surface of the paved gutter, at a junction of a footpath and driveway in the vicinity of Chestnut street; thence north seventy-three degrees fifty-four minutes twenty-two seconds east, one hundred fifty-nine and thirty-one one-hundredths feet to corner eighty-three, a granite monument, with squared top, marked $\frac{B}{B} \frac{O}{R}$, standing about eighty feet south of the footpath opposite the junction of Pond avenue with Jamaica road; thence north forty-five degrees fifty-eight minutes fifty-five seconds east, one hundred thirty-six and three one-hundredths feet to corner eighty-two, a dressed granite monument, marked $\frac{B}{B} \frac{O}{R}$, and standing at the edge of Muddy-river brook, near the first footpath north of Ward's pond, north of Perkins street; thence north fifteen degrees forty-one minutes forty-nine seconds east, seventy-five and fifty-four one-hundredths feet to corner eighty-one; thence north thirty-five degrees thirty-seven minutes seventeen seconds east, forty-four and sixty-two one-hundredths feet to corner eighty; thence north fifty-one degrees thirty minutes fifty-two seconds east, thirty-six and sixty-three one-hundredths feet to corner seventy-nine; thence north seventy degrees forty-eight minutes fifty seconds east, forty-four and two one-hundredths feet to corner seventy-eight; thence south eighty-eight degrees thirty-one minutes thirty-two seconds east, forty-seven and fifty-six one-hundredths feet to corner seventy-seven; thence north fifty-five degrees twenty-one minutes forty-nine seconds east, thirty-three and sixty-five one-hundredths feet to corner seventy-six; thence south sixty-two degrees fifty-three minutes forty-three seconds east, twenty-five and thirty-five one-hundredths feet to

corner seventy-five; thence north fifty-nine degrees thirty-seven minutes forty-seven seconds east, thirty-five and eighty-eight one-hundredths feet to corner seventy-four; thence south eighty-four degrees fifteen minutes twenty-two seconds east, sixteen and thirty-six one-hundredths feet to corner seventy-three; thence north seventy-three degrees two minutes east, twenty-three and fifty-one one hundredths feet to corner seventy-two; thence north forty-eight degrees sixteen minutes fifty seven seconds east, eighteen and ninety-two one-hundredths feet to corner seventy-one; thence north eighty degrees forty-four minutes forty-five seconds east, twenty-one and ninety-one one-hundredths feet to corner seventy; thence south sixty-seven degrees thirty-nine minutes forty-seven seconds east, twenty-six and four one-hundredths feet to corner sixty-nine; thence north seventy-one degrees two minutes forty-two seconds east, twenty-one and eighty-four one-hundredths feet to corner sixty-eight; thence north thirty-seven degrees fifty-seven minutes twenty seconds east, twenty-nine and six one-hundredths feet to corner sixty-seven; thence north seventy degrees twenty-two minutes twenty seconds east, thirty-one and ten one-hundredths feet to corner sixty-six; thence south seventy-one degrees ten minutes seventeen seconds east, twenty-nine and forty-seven one-hundredths feet to corner sixty-five; thence north fifty-six degrees forty-six minutes eleven seconds east, one hundred fourteen and seventy-six one-hundredths feet to corner sixty-four; thence north twenty-one degrees thirty-one minutes thirty-three seconds east, one hundred sixty-three and twenty one-hundredths feet to corner sixty-three; thence north fourteen degrees forty-three minutes thirty-four seconds west, sixty-four and eighty-two one-hundredths feet to corner sixty-two; thence north twenty-three degrees five seconds east, twenty-nine and sixty-three one-hundredths feet to corner sixty-one; thence north nine degrees thirty-nine minutes eighteen seconds east, fifty-seven and fifty-five one-hundredths feet to corner sixty; thence north fourteen degrees thirty-nine minutes forty-five seconds west, forty-four and twenty-seven one-hundredths feet to corner fifty-nine; thence north forty degrees forty-seven minutes fifty-seven seconds east, fifty and sixty-one one-hundredths feet to corner fifty-eight; thence north three degrees six minutes eleven seconds east, thirty-three and eighty-eight one-hundredths feet to corner fifty-seven; thence north sixteen degrees twenty-five minutes thirty-eight seconds east, two hundred fifty-five and sixty-three one-hundredths feet, passing through the witness mark, a dressed granite monument, marked BO BR, and standing at the northerly end of Willow pond and twenty-three and five one-hundredths feet from corner fifty-six to corner fifty-six; thence north thirty-five minutes twenty-seven seconds east, one hundred three and forty-five one-hundredths feet to corner fifty-five, a dressed granite monument, marked BO BR, and standing at the northeasterly edge of a park driveway opposite the end of Highland road: thence north seventeen degrees thirty minutes forty-three

seconds west (found to be north seventeen degrees forty-four minutes west), sixty-nine and twenty one-hundredths feet to corner fifty-four, a granite monument, marked BO BR, squared at the top, and set flush with the surface of the ground on the southerly side of the walk hereinafter mentioned; thence north two degrees fifty minutes seven seconds east (found to be north three degrees eleven minutes east), forty and eighty-two one-hundredths feet to corner fifty-three, a granite monument, marked BO BR, squared at the top and set flush with the surface of the ground, at the junction of the driveway and gravel walk, about two hundred feet northeast of the end of Highland road; thence north fifteen degrees forty-three minutes twenty-four seconds east (found to be north fifteen degrees thirty-three minutes east), fifty and thirty-one one-hundredths feet to corner fifty-two, a point in the retaining wall marked by a drill hole; thence north thirty-three degrees six minutes nineteen seconds east, seventy-two and sixty one-hundredths feet to corner fifty-one; thence north forty degrees thirty-nine minutes four seconds east, two hundred seventy-six and forty one-hundredths feet to corner fifty; thence north nineteen degrees seventeen minutes forty-eight seconds east, one thousand five hundred and eighty one-hundredths feet to corner forty-nine, a point situated one hundred sixty-three and twenty one-hundredths feet easterly from the centre line of Pond avenue, measured at right angles thereto; thence north one degree six minutes twenty-six seconds east, three hundred sixty-two and sixty-one one-hundredths feet to corner forty-eight; thence north thirty-three degrees thirty-five minutes twenty seconds east, three hundred eighty-six and thirty-five one-hundredths feet to corner forty-seven; thence north eighteen degrees forty minutes forty-two seconds east, one hundred ninety-six and forty-seven one-hundredths feet to corner forty-six; thence north thirty-one degrees forty-four minutes sixteen seconds east, three hundred eighty-five and eighteen one hundredths feet to corner forty-five, a point situated eighty-seven feet easterly from the centre line of Brookline avenue and measured on the continuation of the southerly side line of Aspinwall avenue; thence north thirty-seven degrees fifty-nine minutes fifty-two seconds east, by a line parallel with and eighty-seven feet distant from the centre line of Brookline avenue, fifty feet to corner forty-four; thence north thirty-nine degrees thirty-seven minutes twenty-two seconds east, three hundred seventy and twenty-six one-hundredths feet to corner forty-three; thence north fifty-two degrees eight seconds west, ninety-seven and fifty one-hundredths feet to corner forty-two, at the centre line of Brookline avenue, intersecting said line at right angles; thence on the continuation of the last mentioned course, for a further distance of ninety-seven feet to corner forty-one; thence north thirty-four degrees forty-seven minutes forty-one seconds east, two hundred seventeen and thirty one-hundredths feet to corner forty; thence north thirty-four degrees thirty-six minutes sixteen seconds west, three hundred ninety-

one and forty-five one-hundredths feet to corner thirty-nine; thence north forty-eight degrees sixteen minutes thirteen seconds west, ninety-nine and ten one-hundredths feet to corner thirty-eight; thence north twenty-three degrees three minutes fifteen seconds east, four hundred twenty-six and seventy-six one-hundredths feet to corner thirty-seven; thence north nine degrees ten minutes forty seconds east, six hundred eighty-seven and fifty-three one-hundredths feet to corner thirty-six; thence north twenty-three degrees thirteen minutes twenty-five seconds east, one hundred seventy-three and sixty-seven one-hundredths feet to corner thirty-five; thence north thirty-nine degrees fifteen minutes eight seconds east, three hundred fifty-seven and ninety-nine one-hundredths feet to corner thirty-four; thence north sixty-eight degrees fifty-nine minutes nine seconds east, three hundred fourteen and thirty-six one-hundredths feet to corner thirty-three; thence north forty-one degrees fifty-five minutes six seconds east, one hundred one and ninety-eight one-hundredths feet to corner thirty-two; thence north four degrees forty-eight minutes sixteen seconds east, one hundred sixty-five and seventy-six one-hundredths feet to corner thirty-one; thence north fifty-eight degrees twenty-five minutes fifty-nine seconds east, five hundred seven and nine one-hundredths feet to corner thirty; thence north forty-three degrees thirty-seven minutes twenty-five seconds east, four hundred one and ninety-seven one-hundredths feet to corner twenty-nine, an unmarked point situated in the continuation southerly of the easterly line of St. Mary's street and four hundred eighty-three and seventy-eight one-hundredths feet from the southerly line of Monmouth street, Brookline, or Medfield street, Boston; thence north twenty degrees fourteen minutes eighteen seconds west, thirty feet to corner twenty-eight, an unmarked point, and thirty feet distant from the old channel of Muddy river, as defined by chapter three hundred thirty-nine of the acts of the year one thousand eight hundred ninety; thence continuing in the same direction about forty-one feet to corner twenty-eight, witness mark, a granite monument marked BO BR, standing in Muddy river park about eight feet south of the edge of the gravel walk, on the north bank of the river; thence northerly along the easterly line of St. Mary's street produced and the easterly line of St. Mary's street, about one thousand one hundred thirty-eight feet to corner twenty-seven, a granite monument set flush with the surface of the street, marked BO BR on the top, at the intersection of St. Mary's street and Ivy street, in line with the easterly line of St. Mary's street produced; thence north nine degrees five minutes east, along the easterly line of St. Mary's street one thousand thirteen feet to corner twenty-six, a granite monument set flush with the surface of the ground, marked BO BR on the top, at the easterly corner of Commonwealth avenue and St. Mary's street, at the inner edge of a plank-walk; thence north eighty degrees forty-eight minutes west, along the southerly line of Commonwealth avenue four thousand

four hundred seventy feet to corner twenty-five, a granite monument set nearly flush with the surface of the ground, marked BO BR on the top, and situated on the southerly line of Commonwealth avenue, at the northwest corner of land formerly owned by T. Jefferson Coolidge; thence south eight degrees thirty-five minutes west, one hundred twenty-five feet to corner twenty-four, a granite monument set nearly flush with the surface of the ground, marked BO BR on the top, and situated one hundred twenty-eight feet east of the easterly side of Naples road, at the dividing line between land formerly owned by T. Jefferson Coolidge and land now or formerly of Mary H. Foster; thence north eighty degrees forty-four minutes west, along a line parallel with and one hundred twenty-five feet distant from the southerly line of Commonwealth avenue, three hundred eight feet to corner twenty-three, a granite monument set nearly flush with the surface of the ground, marked BO BR on the top, and situated one hundred twenty-five feet south of the southerly line of Commonwealth avenue, near its junction with Brighton avenue and two and forty-six one-hundredths feet west of the junction of fences, at the division line between land of the heirs of Ebenezer Francis and land now or formerly of Mary H. Foster; thence westerly and southwesterly, along a line parallel with and one hundred twenty-five feet distant from the southerly line of Commonwealth avenue one thousand four hundred twenty feet to corner twenty-two, a granite monument marked BO BR, and situated on land of James C. Ayer, at a point one hundred twenty-five feet distant from the southerly line of Commonwealth avenue; thence southwesterly along a line parallel with and one hundred twenty-five feet distant from the southeasterly line of the proposed extension of Holmes avenue to Commonwealth avenue, and of Holmes avenue, crossing Harvard avenue, about one thousand six hundred sixty-seven feet to corner twenty-one, a rough three-sided granite monument, marked $\frac{B}{O} \frac{B}{R}$, and situated in cultivated land on the division line between Otis Shepard and Edward McKechnie estates, and the estate of R. Holmes; thence southwesterly, along a line parallel with and one hundred twenty-five feet distant from the southeasterly line of Holmes avenue, about six hundred sixty-nine feet to corner twenty, a granite monument, marked BO BR, and standing in cultivated land on the northerly slope of Corey Hill, about eight feet south of the southerly line of Winchester street, Brookline, or Warren street, Boston; thence southwesterly, along a line parallel with and one hundred thirty feet distant from the southeasterly line of Corey road, formerly Summer street, crossing Summit avenue one thousand eight hundred fifty-one feet to corner nineteen, a rough granite monument, marked $\frac{B}{O} \frac{B}{R}$, and situated on the northeasterly side of Washington street, on the estate of Eben D. Jordan, directly opposite the bound hereinafter described; thence south forty-seven degrees thirty-five minutes east, about sixty-one feet to corner eighteen, a

granite monument set flush with the surface of the ground, marked BO BR, and situated on the southwesterly side of Washington street; thence along a line parallel with and one hundred twenty-five feet distant from the easterly line of Corey road, about nine hundred twenty-six feet to corner seventeen, a granite monument set nearly flush with the surface of the ground, marked BO BR on the top, and situated near the top of a grassy knoll in the Corey estate; thence north eighty-one degrees seven minutes west, one hundred twenty-five feet to corner sixteen, a granite monument set nearly flush with the surface of the ground, marked BO BR on the top, and situated on the easterly side of Corey road, about half way between the junctions of Cummings road and Windsor road with Corey road; thence south eighty-eight degrees twenty-one minutes west, four hundred ninety-one feet to corner fifteen, a granite monument set nearly flush with the surface of the ground, marked BO BR on the top, and situated at the northerly and rear corner of the estate of A. A. Adams, sixty-five one-quarter feet north from the northwesterly corner of the main portion of the house; thence south forty-nine degrees three minutes west, crossing Kilsyth road three hundred eighty-one feet to corner fourteen, a granite monument set nearly flush with the surface of the ground, marked BO BR on the top, and situated at the northeasterly corner of a greenhouse in the rear of H. J. Whiton's house; thence south forty-five degrees forty-nine minutes west, three hundred thirty-four feet to corner thirteen, a granite monument set nearly flush with the surface of the ground, marked BO BR on the top, and situated on the easterly side of Lanark road, about two hundred feet north of the corner of Englewood avenue and at the northwest corner of the estate now or formerly of Dana Estes; thence south thirty-one degrees six minutes west, about forty-three feet to corner twelve, a granite monument set flush with the surface of the ground, marked BO BR, and situated on the westerly side of Lanark road, at a point about one hundred forty feet north of its junction with Englewood avenue; thence south seventy-six degrees fifty minutes west, one hundred feet to corner eleven, a granite monument set nearly flush with the surface of the ground, marked BO BR, and situated at the rear end of the division line between land now or formerly of Fannie A. Leland and land of Frederick S. Davis; thence south twelve degrees fifty-four minutes east, one hundred forty feet in said division line to corner ten, a granite monument set flush with the surface of the ground, marked BO BR on the top, and situated on the northerly side of Englewood avenue, at the edge of the grass, about one hundred feet westerly from Lanark road, at said division line; thence south forty-one degrees nine minutes east, sixty-one feet to corner nine, a granite monument set flush with the surface of the ground, marked BO BR on the top, and situated on the southerly side of Englewood avenue, at the inner edge of the concrete sidewalk; thence south thirteen

degrees five minutes east, two hundred twenty-two feet to corner eight, a granite monument set nearly flush with the surface of the ground, marked BO BR on the top, and situated at the top of a low bank thirty-six six-tenths feet northwest of the northwesterly corner of the house No. 1856 Beacon street; thence southwesterly along a line parallel with and one hundred five feet distant from the northerly line of Beacon street, about three hundred twenty-nine feet to corner seven, a granite monument set nearly flush with the surface of the ground, marked BO BR on the top, and situated on the westerly side of Strathmore road; thence westerly along a line parallel with and one hundred five feet northerly from the northerly line of Beacon street, about four hundred one feet to corner six, a granite monument six by six inches in section, set flush with the surface of the ground and having a shallow one-half inch drill hole in the top, which is dressed, said monument being situated on the easterly side of Ayr road, one hundred five feet north of the northerly line of Beacon street; also a granite monument set three feet below the surface of the ground and in the above location; thence south seventeen degrees twenty-four minutes east, crossing Beacon street four hundred and four feet to corner five, a one-half inch bolt driven into the flooring of the car-house of the Boston Elevated Railway Company, with an underground mark directly beneath the bolt, a granite monument marked BO BR, at present not easily accessible; thence south seventy-two degrees twenty-seven minutes west, along the southerly line of a former passage-way, about five hundred feet to corner four, a granite monument, set a little below the surface of the ground, marked BO BR on the top, and situated on the northeasterly side of Chestnut Hill avenue, near the Beacon street circle and at the tracks of the Boston Elevated Railway Company as they turn from the highway to enter the car-house; thence south sixteen degrees fifty-three minutes west, sixty-nine feet to corner three, a granite monument, marked $\begin{smallmatrix} B & B \\ R & O \end{smallmatrix}$, standing in the retaining wall on the southwesterly side of Chestnut Hill avenue; thence south forty-five degrees eleven minutes west, one hundred twenty-five feet to corner two, a granite monument marked BO BR, and standing in open land, about forty-three and five tenths feet south of the southwesterly corner of the dwelling house at the easterly corner of the reservoir property; thence along a line parallel with and one hundred twenty-five feet southwesterly from the southwesterly line of Chestnut Hill avenue, about two hundred four feet to corner one, a granite monument, marked $\begin{smallmatrix} B & B \\ O & R \end{smallmatrix}$, and situated on the southeasterly slope of the bank of the railroad hereinafter mentioned at a point about one hundred twenty-five feet west of the Chestnut Hill-avenue bridge; thence along a line parallel with and twenty-five feet distant from the centre line of the location of the Newton circuit of the Boston and Albany railroad, about two thousand four hundred eighty-four feet to the

northerly corner of Boston, Brookline and Newton, a granite monument, marked N BO BR on its squared top, and situated about twenty-five feet southeast of the centre of the southerly track of the above-mentioned railroad, or the centre line of location, at a point about five hundred feet southwest of the pumping station of the Metropolitan water works; thence north thirty-seven degrees seven minutes west, seven hundred thirty feet to corner nineteen, a granite monument with top and lettered spaces dressed, marked B N, and standing in a stone wall on the southwesterly side of Beacon street about seven hundred feet west of the pumping station of the Metropolitan water works; thence north thirty-seven degrees six minutes west, two hundred thirty-two feet to corner eighteen, a dressed granite monument, marked B on the face and $\frac{N}{4}$ on the top, and standing in the southerly line of Beacon street, at a point on the tangency; thence along a curved line of nine hundred eighty feet radius, on the southerly side of Beacon street, about three hundred thirty-three feet to corner seventeen, a dressed granite monument, marked B on the face and $\frac{N}{4}$ on the top, and standing in the southerly line of Beacon street at a point of tangency opposite the lower reservoir; thence north fifty-six degrees thirty-two minutes west, along the southerly side of Beacon street, two hundred forty-four feet to corner sixteen, a dressed granite monument, marked B on the face and $\frac{N}{4}$ on the top, and standing in the southerly line of Beacon street at a point of tangency opposite the lower reservoir; thence along a curved line of eight hundred sixty-two feet radius, on the southerly side of Beacon street, about six hundred thirty feet to corner fifteen, a dressed granite monument, marked B on the face and $\frac{N}{4}$ on the top, and standing in the southerly line of Beacon street at a point of tangency opposite the Chestnut Hill reservoir; thence south eighty-one degrees thirty-five minutes west along the southerly line of Beacon street one thousand two hundred twenty-three feet to corner fourteen, a granite monument with top and lettered spaces dressed, marked B N, and situated on the southerly side of Beacon street, at a point midway between Lawrence avenue and Reservoir avenue, Newton; thence north eighteen degrees fifty-six minutes west five hundred fifty-two feet to corner thirteen, a granite monument with top and lettered spaces dressed, marked B N, and situated in a clump of arbor vitæ trees, on the bank, about fifteen feet west of Chestnut Hill driveway; thence north thirty-eight degrees forty minutes west one hundred sixty-five feet to corner twelve, a granite monument with top and lettered spaces dressed, marked B N, and situated six feet west of a large ledge at the northerly corner of cultivated land, about eighty-five feet west of Chestnut Hill driveway; thence north eighteen degrees fifty-eight minutes west two hundred sixty-three feet to corner eleven, a granite monument with top and lettered spaces dressed, marked B N, and situated at the top of the bank, near the westerly edge of woodland, about

—between
Boston and
Newton (the
northerly or
Brighton
portion).
1874, 277.
1875, 184.
1898, 242, 431.

one hundred fifteen feet west of Chestnut Hill driveway; thence north two degrees twenty-eight minutes east one hundred seventy-four feet to corner ten, a granite monument with top and lettered spaces dressed, marked B N, and situated at the top of the bank, on the westerly edge of pines, about seventy feet west of Chestnut Hill driveway and at the southeasterly end of a stone wall; thence north ten degrees twenty-one minutes west three hundred ninety-seven feet to corner nine, a granite monument with top and lettered spaces dressed, marked B N, and situated at the top of the bank, at the westerly edge of a clump of pines, about sixty feet west of Chestnut Hill driveway; thence north five degrees forty-seven minutes west two hundred fifty-three feet to corner eight, a granite monument with top and lettered spaces dressed, marked B N, and situated at the top of the bank near the northwesterly edge of a clump of pines, about sixty feet northwest of Chestnut Hill driveway; thence north twenty-eight degrees forty-one minutes east one hundred fifty-eight feet to corner seven, a granite monument with top and lettered spaces dressed, marked B N, situated at the top of the bank, near the northerly edge of a clump of pines, about sixty feet northwest of Chestnut Hill driveway; thence north fifty-one degrees thirteen minutes east one hundred five feet to corner six, a granite monument with top and lettered spaces dressed, marked B N, situated near the northerly edge of a clump of pines, at the top of the bank, about seventy feet north of Chestnut Hill driveway; thence north sixty-four degrees forty-five minutes east sixty-seven feet to corner five, a granite monument with top and lettered spaces dressed, marked B N, situated in a clump of arbor vitæ trees, near a wall at the top of the bank, about seventy-five feet north of Chestnut Hill driveway; thence north sixty-three degrees fifty-two minutes east four hundred eighty-three feet to corner four, a granite monument with corners squared and dressed, marked B N, standing in an old orchard fifty feet north of the northerly side of Chestnut Hill driveway, north of the Lawrence basin; thence north six degrees thirty-seven minutes east two hundred ninety-nine feet to corner three, a granite monument unmarked, situated one and five one-hundredths feet south of a fence on the northerly side of Commonwealth avenue, at a point one hundred fifty feet west of its junction with Lake street; thence north thirty degrees thirty-eight minutes west four thousand three hundred thirty-four feet to corner two, a granite monument, marked B N, situated in the centre of the sidewalk on the northerly side of Nonantum street, on Nonantum hill; thence north twelve degrees twenty-nine minutes east one thousand one hundred sixty-seven feet to corner one, a granite monument, marked B N, situated in a stone wall on the northerly line of Washington street, at the top of Bigelow hill; thence north thirty-five degrees thirty-three minutes east two thousand four hundred sixty feet to the witness mark herein-after described; thence in the same direction about three hundred

fifty feet to the corner of Boston, Newton and Watertown, an unmarked point in the centre of the channel of Charles river, being north thirty-five degrees thirty-three minutes east and about three hundred fifty feet distant from the witness mark on the southerly shore, a granite monument, marked B N, situated about four hundred fifty feet north of the Boston and Albany railroad tracks, at a point about three-eighths of a mile west of the North Beacon street bridge; thence easterly along the centre line of the channel of Charles river about seven thousand five hundred feet to the corner of Boston, Cambridge and Watertown, an unmarked point in the channel of Charles river, south of Mt. Auburn cemetery and south eighteen degrees twenty-two minutes east, and about one hundred thirty feet distant from the witness mark, a granite monument, marked I C W, standing on the northerly bank of the river, on the division line between the Winchester and Treat estates, at a point three hundred forty feet south of Coolidge avenue; thence northeasterly, southerly and easterly along the channel of Charles river, about twenty-two thousand feet to corner five, an unmarked point in the old channel of Charles river about three hundred forty feet southwest of the southwesterly line of Harvard bridge, at a point opposite the draw pier; thence northeasterly along a line parallel with, and one thousand two hundred thirty feet from the northwesterly line of, Beacon street, about four thousand six hundred ninety feet to corner four, an unmarked point in the bend of Charles river, nearly opposite the foot of Berkeley street, being at the intersection of the line hereinafter described and a line parallel with, and one thousand two hundred thirty feet from the northwesterly line of, Beacon street; thence northerly along a line parallel with and one thousand feet west of the harbor line on the Boston shore of the river south of the Cambridge bridge, about two thousand one hundred ten feet to corner three, an unmarked point in Charles river, about thirty-five feet west of the channel and seven hundred eighty feet north of the above described bridge, on a line parallel with and one thousand feet from the harbor line on the Boston shore of the river south of said bridge; thence northerly along a curve line, about two hundred feet to corner two, an unmarked point in the channel of Charles river, about nine hundred seventy feet north of the above described bridge, as shown on a plan made by William Jackson, City Engineer of Boston, and filed with the Secretary of the Commonwealth, and described in chapter two hundred forty-three of the acts of the year eighteen hundred and ninety-eight; thence northerly and easterly along the channel of Charles river about three thousand three hundred thirty feet to corner one, an unmarked point at the junction of the old channel of Charles river with the old channel of Miller's river about five hundred twenty-five feet northwest of the North Union station; thence northwesterly along the old channel of Miller's river, about three thousand nine hundred feet to the corner

— between
Boston and
Watertown.

— between
Boston and
Cambridge.
1806, 65.
1817, 100.
1820, 24.
1842, 42.
1862, 65, § 2.
1882, 248.

— between
Boston and
Somerville.
1891, 294.

of Boston, Cambridge and Somerville, an unmarked point in the old channel of Miller's river, south seventeen degrees thirty-eight minutes east, and about two hundred thirty-five feet from the witness mark, a granite monument, marked B S, standing two feet south of the southerly rail of the main track of the Fitchburg division of the Boston and Maine railroad; thence north seventeen degrees thirty-eight minutes west two hundred thirty-five feet to the witness monument before described; thence continuing in the same direction two thousand four hundred thirty feet to corner four, a granite monument, marked B S, situated in the yard of the Boston and Maine railroad seventeen and eight one-hundredths feet south of the round house and sixteen and six one-hundredths feet west of the centre of the tracks entering the round house; thence north seventy-seven degrees seventeen minutes west one thousand three hundred ninety-seven feet to corner three, a granite monument, marked B S, situated in salt marsh, in front of the Barrett dye works, and about one hundred fifty feet south of the southerly line of Roland street at its junction with Crescent street, Somerville; thence north eight degrees fifty-one minutes west four hundred seventy-three feet to corner two, an irregularly shaped granite monument, marked B S, situated two feet north of an angle in the fence on the westerly side of Crescent street, twenty-six and six one-hundredths feet north of Washington street, at the southerly side of what was formerly known as "Widow Stearn's lot, near the town ledge"; thence northeasterly along the southeasterly side of Crescent street about four hundred feet to corner one, a granite monument, marked B S, situated at the easterly corner of Hadley and Crescent streets; thence north twenty-seven degrees forty-nine minutes east two thousand four hundred forty-three feet to the witness mark, a granite monument, marked B S, situated in the cellar of a house owned by the Boston Elevated Railway Company, on the northerly side of George street, about three hundred feet from the southerly shore of Mystic river; thence in the same direction about one thousand two hundred ten feet to the corner of Boston, Everett and Somerville, an unmarked point in the channel of Mystic river, about four hundred feet southeasterly from the centre of the draw of the Boston and Maine railroad bridge, Eastern Division; thence southeasterly along the channel of Mystic river to an unmarked point in the centre of the channel of Mystic river, at its junction with the centre of the channel of a small creek, being about eight hundred eighty feet northwesterly from the centre of the draw of Malden bridge; thence northerly, easterly and northerly following the centre line of the channel of the small creek to a point in the centre of the channel of the small creek at the junction of its two branches, on a line toward and about one hundred two feet from the witness mark, a granite monument, marked B E, standing on a narrow point of land on the northerly bank of Mystic river, near its junction with the creek;

— between
Boston and
Everett.
1870 66.

thence north forty-one degrees eleven minutes east about five hundred ten feet to a granite monument, marked B E, situated on the southerly side of a private way leading from Alford street to the Cochrane chemical works, at a point about one hundred seventy-six feet from Alford street; thence south forty-nine degrees four minutes east one hundred eighty-one feet to a point formerly marked by a granite monument, marked B and E, but which has been replaced by an iron pipe filled with cement with an iron pin in the centre, at the southwest corner of Broadway and a private way leading to the Cochrane chemical works; thence south sixteen degrees fifty-eight minutes west one hundred sixty-eight feet to a point in the centre of the end of the culvert on the old easterly line of Broadway in Everett and Alford street in Boston; thence south ten degrees forty-seven minutes east one hundred fifty-six feet to an unmarked point; thence south twenty-nine degrees thirteen minutes west, crossing Dexter street, and passing through a point one foot westerly of a granite monument marked B E, and thirty and fifty one-hundredths feet from the unmarked point hereinafter mentioned two hundred ninety-seven feet to an unmarked point in a ditch in the marsh; thence south thirty-seven degrees eleven minutes west six hundred ninety-three and eighty one-hundredths feet to a granite monument, marked B E, set nearly flush with the ground, situated about sixty feet southeast of the line of Alford street; thence in the same direction forty-eight and seventy one-hundredths feet to a point in the high water mark on the northeasterly shore of Mystic river, marked by a copper bolt in the top of a rough stone in the top course of masonry at the northeasterly end of the sea wall forming the down-stream face of the coal wharf adjoining the southeasterly side of Malden bridge or Alford street; thence southwesterly, passing through a point sixty-eight feet southeasterly from Malden bridge at low water mark, about one thousand two hundred forty feet to an unmarked point in the centre line of the channel of Mystic river southeast of Malden bridge and about one hundred thirty-five feet northeast of the draw pier, at a point where said line is intersected by a line nearly parallel to Malden bridge and running southwesterly from the copper bolt before described; thence easterly along the centre line of the channel of Mystic river to the corner of Boston, Chelsea and Everett, an unmarked point in the centre line of the channel of Mystic river, at a point where the centre line of the channel of Island End river intersects the same, being about two thousand four hundred feet up stream from the northerly draw of Chelsea bridge.

MEETINGS.

SECT. 4. The annual meeting of citizens for the election of city officers shall be held on the Tuesday next succeeding the second Monday of December. The person receiving the highest number of votes for any office shall be deemed and declared to be elected thereto; and, if two or more persons are

Annual meet-
ing for election
of city officers.
Amend. Const.
Art. xlv.
1821, 110, § 3.
1854, 448, § 4.
1890, 401.
R. L. 11, §§ 2, 3.
1907, 560, §§ 2, 3.

to be elected to the same office, the several persons, to the number required to be chosen, having the highest number of votes shall be declared to be elected thereto; but persons receiving the same number of votes shall not be deemed to be elected if thereby a greater number would be elected than are by law to be chosen.

Calling of
meetings for
elections.
1821, 110, § 26.
1834, 448, § 61.
1880, 401.
R. L. 11, § 212.
1907, 560, § 246.

SECT. 5. Meetings of the voters for the election of state and city officers shall be called by the aldermen seven days at least before the day prescribed for the holding thereof, and the city clerk shall, seven days at least before the day fixed for any meeting, advertise in at least four daily newspapers published in the city of Boston a notice of the time and place of such meeting, the hours for opening and closing the polls, the officers to be chosen and the question or questions to be voted upon, any general law to the contrary notwithstanding.

General meet-
ings of the
citizens.
Decl. of Rights.
Art. xix.
1821, 110, § 25.
1834, 448, § 60.
1882, 204.
114 Mass. 214,
228.

SECT. 6. General meetings of the citizens qualified to vote in city affairs may, from time to time, be held to consult upon the common good, to give instructions to their representatives, and to take all lawful measures to obtain a redress of any grievances according to the right secured to the people by the constitution of this commonwealth. Such meetings shall be called by the board of aldermen upon the requisition of twenty-five qualified voters of each ward.

Proceedings if
aldermen
refuse to call
meeting.
1882, 204.

SECT. 7. If the board of aldermen refuses or neglects to call any meeting described in the preceding section any justice of the municipal court of said city may, upon a like requisition, by a warrant under his hand, in such form, and served, executed and returned as he shall determine, call such meeting, at such time and in such manner as he may direct, and shall appoint some person to preside therein until it shall have been duly organized by the choice of a chairman and clerk.

DIVISION INTO WARDS AND PRECINCTS.

Division into
wards.
1821, 110, § 2
1834, 448, § 3.
1875, 243, § 1.
1876, 242, § 1.
1888, 175.
1891, 88.
R. L. 11, § 161.

SECT. 8. The city council shall, in the year nineteen hundred and fifteen, and in every tenth year thereafter in which a census shall be taken by authority of the commonwealth, before the first day of May, cause a new division of the city to be made into twenty-five wards, in such manner as to include an equal number of voters in each ward, as nearly as conveniently may be consistent with well-defined limits to each ward; and, until such division shall have been made, the boundary lines of the wards shall remain as established.

Division of
wards into
voting pre-
cincts.
1878, 243, § 1.
R. L. 11, § 163.
1907, 560, § 192.

SECT. 9. The board of aldermen shall, on or before the first Monday of July in the year of the redivision of the city into wards, divide the city into voting precincts conformably to the provisions of section one hundred and ninety-one of chapter five hundred and sixty of the acts of the year nineteen hundred and seven.

ACTIONS BY AND AGAINST THE CITY.

SECT. 10. An action by or against the city of Boston, except actions mentioned in the following section and actions by the city collector under the provisions of sections thirty-two and thirty-three of chapter thirteen of the Revised Laws, may be brought in either of the counties of Suffolk, Essex, Middlesex or Norfolk, or in the county in which the plaintiff lives.

Venue of transitory actions by or against the city.
R. L. 167, § 8.

SECT. 11. An action against the city of Boston to recover for injury or damage received by reason of a defect, want of repair or of an insufficient railing in or upon a highway, causeway or bridge may be brought in the county of Middlesex, in the county of Norfolk or in the county in which the plaintiff lives. An action against said city to recover for injury or damage by reason of negligence other than that relating to such defect, want of repair or insufficient railing, shall be brought in the county in which the plaintiff lives or has his usual place of business or in the county in which the alleged injury or damage was received.

—of actions for defective highways.
R. L. 167, § 6.
1904, § 20.

SECT. 12. The defendant or tenant in an action brought in the county of Suffolk by the city of Boston or by its collector may, if the action is brought in the supreme judicial court or the superior court, within thirty days after the day for appearance, or if the action is commenced in a police, district or municipal court and taken to the superior court on appeal, within thirty days after the entry of the appeal, file a motion in writing for the removal of the action to the county of Essex, Middlesex or Norfolk, and the court shall thereupon order it to be removed to the same court in such one of said counties as the attorney of the city of Boston elects.

Removal of actions from county of Suffolk.
R. L. 167, § 9.

CHAPTER 2.

OF THE COMPOSITION OF THE CITY GOVERNMENT.

SECTION 1. The city government.

SECTION 1. The administration of all the fiscal, prudential and municipal affairs of the city of Boston, with the conduct and government thereof, shall be vested in one principal officer to be styled the mayor, one council of thirteen persons to be called the board of aldermen, and one council of seventy-five persons to be called the common council, which bodies, in their joint capacity, shall be denominated the city council; and also in such other boards or officers as are hereinafter specified.

The city government.
1821, 110, § 1.
1864, 448, § 2.
1875, 243, § 2.
1876, 242, § 3.
1904, 404, § 1.
1888, 175.

TITLE II.

OF THE EXECUTIVE DEPARTMENT.

CHAPTER 3.

THE MAYOR.

SECTION	ELECTION.	SECTION
	1. Election of mayor.	9. Appointments to and removals from office.
	2. Failure to elect and refusal to serve.	10. Approval or disapproval by mayor of votes, etc.
	3. Organization of city government upon failure to elect mayor.	11. Partial vetoes.
	4. Vacancy in office of mayor.	12. Mayor to consult heads of departments.
	5. Acting mayor.	13. Conferences with representatives of departments.
	6. Oath of office.	14. Salary of mayor.
		15. Randlidge trust fund.
		16. Member of board of sale.
	POWERS AND DUTIES OF MAYOR.	
	7. Powers of mayor in general.	
	8. Same subject.	

ELECTION.

Election of mayor.
1821, 110, § 5.
1854, 448, § 15.
1895, 448, § 1.

Failure to elect and refusal to serve.
1821, 110, § 5.
1854, 448, §§ 16, 18.

Organization of city government upon failure to elect mayor.
1854, 448, § 17.

SECTION 1. The male voters of the city of Boston shall, at the annual city election in the year nineteen hundred and seven and in each alternate year thereafter, choose one person, being an inhabitant of the city, to be mayor of said city for the term of two years beginning with the first Monday in January following his election and until his successor is chosen and qualified.

SECT. 2. If at such election, or at any other election called for the choice of a mayor, no person is elected mayor, or, if the person so elected dies or refuses to accept the office, the board of aldermen shall call another meeting for a new election.

SECT. 3. If by an inspection of the votes given for mayor at the meeting held for the purpose of electing such officer last preceding the first Monday in January in any year in which a mayor is to be chosen, it appears that no person has been elected mayor or if a person so elected dies or refuses to serve, the board of aldermen shall make a record thereof; and, on the first Monday of January thereafter, the city clerk shall produce and read an attested copy of such record in the presence of the members elect of the board of aldermen and common council, and the oaths prescribed by law may be administered to them. The board of aldermen and common council shall thereupon organize in the manner hereinafter provided and may proceed to business in the same manner as if a mayor had been elected. The board of aldermen shall then forthwith call a meeting for a new election.

SECT. 4. If a vacancy occurs in the office of mayor before the last six months of the term of office, the city council shall order an election for a mayor to serve for the unexpired term, said election to be called as provided in section five of chapter one of this consolidation; and if it occurs in the last six months of said term, the chairman of the board of aldermen shall act as mayor for the unexpired term.

Vacancy in
office of mayor.
1821, 110, § 5.
1854, 448, §§ 29,
50.
1895, 449, § 1.

SECT. 5. In the case of the decease, inability, absence or resignation of the mayor and whenever there is a vacancy in the office from any cause, the chairman or other presiding officer of the board of aldermen shall perform the duties of mayor. If he is also absent or unable from any cause to perform such duties, they shall be performed by the president of the common council until the mayor, chairman or other presiding officer of the board of aldermen returns or is able to attend to said duties. The person upon whom such duties devolve shall be called "acting mayor," and he shall possess the powers of mayor only in matters not admitting of delay, but shall have no power to make permanent appointments.

Acting mayor.
1821, 110, § 5.
1854, 448, § 50.
1892, 182.
1895, 390.
R. L. 26, §§ 29,
30.

SECT. 6. The mayor elect, on the first Monday of January, or before entering upon the performance of the duties of his office, shall be sworn by taking the oath of allegiance and oath of office prescribed in the constitution of this commonwealth and an oath to support the constitution of the United States. Such oath may be administered to him by a justice of the supreme judicial court or by any judge or justice of any other court of record which is commissioned to hold court within the city of Boston or by a justice of the peace, and the clerk of the board of aldermen and the clerk of the common council, respectively, shall enter a certificate of the administration of such oath in the journal of his respective branch of the city council.

Oath of office.
1821, 110, § 9.
1854, 448, § 27.

POWERS AND DUTIES OF MAYOR.

SECT. 7. The mayor shall be the chief executive officer of the city of Boston, and the executive powers of said city, and all the executive powers vested in the board of aldermen as such, as surveyors of highways, county commissioners or otherwise, on the twenty-sixth day of June in the year eighteen hundred and eighty-five, are and shall continue to be vested in the mayor, to be exercised through the several officers and boards of the city in their respective departments under his general supervision and control; and, as such executive officer, it shall be his duty to secure the honest, efficient and economical conduct of the entire executive and administrative business of the city and the harmonious and concerted action of the different departments.

Powers of
mayor in
general.
1821, 110, § 12.
1854, 448, §§ 33,
41, 45, 46.
1885, 206, § 6.
5 Gray, 121.
135 Mass. 197.
142 Mass. 200.
157 Mass. 177.
163 Mass. 34.
184 Mass. 373.

SECT. 8. The mayor shall be vigilant and active at all times in causing the laws for the government of said city to be duly executed and enforced; to inspect the conduct of all subordinate officers in the government thereof; and, as far as may be in his power, to cause all negligence, carelessness and posi-

Same subject.
1821, 110, § 12.
1854, 448, § 46.
98 Mass. 39, 43.
157 Mass. 100.

tive violation of duty to be duly prosecuted and punished. He may, whenever in his judgment the good of said city may require, summon meetings of the board of aldermen and common council, or either of them, although the meeting of said boards may stand adjourned to a more distant day, and shall cause suitable notice in writing of such meetings to be given to the respective members of said boards. And he shall from time to time communicate to both branches of the city council all such information, and recommend all such measures, as may tend to the improvement of the finances, the police, health, security, cleanliness, comfort and ornament of the said city.

Appointments
to and
removals from
office.

1821, 110, § 21.
1854, 448, § 49.
1881, 229, § 1.
1885, 266, §§ 1, 2.
1890, 418, § 1.
1891 Mass. 482.
189 Mass. 446.

SECT. 9. He shall appoint, subject to confirmation by the board of aldermen, all officers and boards whose appointment is directed to be made by the mayor and aldermen, all officers and boards which, on the twenty-sixth day of June, in the year eighteen hundred and eighty-five, were elected by the city council or board of aldermen, or which were then appointed by the mayor subject to confirmation, as well as all those whose offices may hereafter be established by the city council or board of aldermen, for such terms of service respectively as are or may be fixed by law or ordinance; and he may remove any of said officers or members of such boards for such cause as he shall deem sufficient and shall assign in his order for removal. No appointment made by the mayor shall be acted upon by the board of aldermen until the expiration of one week after such appointment shall have been transmitted to it. The provisions of this section shall not apply to the city messenger, to the clerk of committees of the city council, nor to such other clerks and attendants as may be employed by the city council or by either branch thereof.

Approval or
disapproval by
mayor of votes,
orders, etc.
1854, 448, § 47.
1885, 266, § 10.
187 Mass. 507.
189 Mass. 513.
189 Mass. 15.

SECT. 10. Every order, resolution or vote of the board of aldermen which involves the exercise of any of the powers conferred by law upon the mayor and aldermen, or upon the board of aldermen as a separate board, every ordinance, order, resolution or vote to which the concurrence of the board of aldermen and of the common council may be necessary, except the question of a convention of the two branches, and every order, resolution or vote of either branch of the city council or of the school committee which involves the expenditure of money, shall be presented to the mayor for his approval; and, if he approves thereof, he shall signify his approval by signing it: but, if not, he shall return the same with his objections to the branch in which it originated, or to the school committee, as the case may be, who shall enter the objections of the mayor at large on their records and proceed to reconsider said ordinance, order, resolution or vote, and if, after such reconsideration, two-thirds of the board of aldermen or common council, notwithstanding such objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the city council (if it originally required concurrent action), where it shall also be reconsidered, and if approved by two-thirds of

the members present it shall be in force; but in all cases the vote shall be determined by yeas and nays, and if such ordinance, order, resolution or vote shall not be returned by the mayor within ten days after it shall have been presented to him the same shall be in force. In the case of an order, resolution or vote of the school committee, if two-thirds of the committee after such reconsideration, agree, notwithstanding such objections, to pass the same, it shall be in force. The veto power of the mayor shall not extend to the election of officers required by any law or ordinance to be chosen by the city council in convention or by concurrent action unless expressly so provided therein.

— SECT. 11. If an ordinance, order, resolution or vote of the city council, or of either branch thereof, or of the school committee, as the case may be, which involves the appropriation or expenditure of money, or the raising of a tax, and which includes separate items or sums, is presented to the mayor for his approval, he may approve some of the items or sums and disapprove others; and, in case of such disapproval, such portion of the ordinance, order, resolution or vote as is approved shall be in force. The mayor shall return a statement of the items or sums disapproved, with his objections in writing, to that branch of the city council wherein the ordinance, order, resolution or vote originated, or to the school committee, as the case may be, and such items or sums shall not be in force unless passed in the manner provided in the preceding section.

Partial vetoes
1885, 266, § 9.

SECT. 12. The mayor shall, once a month, or oftener, call together the heads of departments, for consultation and advice upon the affairs of the city; and, at such meetings, and at all times, they shall furnish such information as to matters under their control as the mayor may request.

Mayor to
consult with
heads of
departments.
1885, 266, § 7.

SECT. 13. The mayor shall quarterly, in March, June, September and December, and at such other times, and at such places, as he shall appoint, hold conferences, at which he shall preside and at which may be present the penal institutions commissioner, the institutions registrar, two members of the board of trustees for children, two members of the board of pauper institutions trustees, two members of the board of insane hospital trustees and two members of the board of overseers of the poor, to be selected by such boards severally, to consider any subjects relating to the work of said departments, or any two or more of them, or relating to the co-ordination of such work.

Conferences
with represen-
tatives of
departments.
1897, 395, § 7.
1897, 451, § 2.

— SECT. 14. The annual salary of the mayor shall be fixed by the city council by concurrent vote at a sum not less than five thousand dollars, and he shall receive for his services no other compensation or emolument whatever, nor shall he hold any other office of emolument under the city government. No increase or decrease of such salary shall be made to take effect until the expiration of the term for which the mayor then in office shall have been elected.

Salary of
mayor.
1821, 110, § 12.
1854, 448, §§ 43.
45.
1885, 266, § 11.

Randidge
trust fund.
1896, 216.

SECT. 15. The income of the Randidge trust fund, which fund the city of Boston, by chapter two hundred and sixteen of the acts of the year eighteen hundred and ninety-six, was authorized to receive, shall be applied forever under the sole direction of the mayor for the time being for the sole purpose of affording to the children of the poor of said city of all religious denominations the pleasure of one or more excursions during July and August in each year, and he is authorized to expend the income of said fund in accordance with the terms thereof as hereinbefore set forth.

Member of
board of sale.
1906, 250, § 1.

SECT. 16. The mayor, acting jointly with the school committee and the schoolhouse commissioners, shall constitute a board with power to sell and convey any land or buildings owned by the city which, at the time of such sale, are or may have been used for school purposes, as is more fully set forth in section twenty-five of chapter thirty-three of this consolidation.

TITLE III.

OF THE LEGISLATIVE DEPARTMENT.

CHAPTER 4. — The Board of Aldermen.

CHAPTER 5. — The Common Council.

CHAPTER 6. — The City Council.

CHAPTER 4.

THE BOARD OF ALDERMEN.

NOMINATION AND ELECTION. SECTION

1. Election of aldermen.
2. Limit of number to be voted for.
3. Failures to elect and vacancies.
4. Aldermanic districts.
5. Nomination of candidates.
6. Nomination to fill vacancies.
7. Nomination papers of candidates to be voted for at primaries.
8. Nomination papers of candidates to be voted for at elections.
9. Ballots and returns of primaries.
10. Term of office and salary.

ORGANIZATION AND CHAIRMANSHIP.

11. Organization and chairmanship of board.
12. Quorum of board. Meetings.

SECTION

13. Board to be judge of qualifications and elections.

POWERS AND DUTIES.

14. General powers and duties.
15. Board to have powers of county commissioners.
16. Duties as to railroad corporations.
17. Initial action to be by board.
18. Incurrence of expenses by members of board restricted.
19. Custody and public inspection of such bills.
20. Preservation of ballots.
21. Order for delivery of box of ballots.
22. Board of election commissioners to receive ballots.
23. Penalty.
24. Enacting style of rules of board.

NOMINATION AND ELECTION.

SECTION 1. There shall annually be elected at the annual city election thirteen aldermen at large from the male voters of the city of Boston. 1883, 473, § 1; 1897, 361, § 2; 1899, 355, § 2; 1903, 426, § 1; 1904, 404, § 1.

SECT. 2. No voter shall vote for more than seven aldermen, and the thirteen aldermen receiving the highest number of votes shall be declared elected. 1903, 426, § 3. 1904, 404, § 2.

SECT. 3. If a vacancy shall occur in the board of aldermen from failure to elect, removal from the city, death, resignation or otherwise, an election to fill the vacancy shall be held on such day as shall be determined by the remaining members of the board, and the same proceedings shall be had as are provided for at an annual election. If, upon the first Monday of January in any year, no alderman shall have been elected, the president of the common council shall call a meeting of the voters for the election of aldermen in the same manner as the board of aldermen might have done.

SECT. 4. The city of Boston is hereby divided, for the purpose of nominating candidates for aldermen by a political party, into eleven districts, as follows:

The first district shall consist of wards one and two, and one candidate shall be nominated therein.

Election of aldermen.
1821, 110, § 6.
1854, 448, § 19;
449.
1884, 250, § 3.

Limit of number to be voted for.
1893, 473, § 2.
1899, 355, § 2.

Failures to elect and vacancies, proceedings on.
1824, 28, § 6.
1854, 448, § 18.
1880, 225, § 3.
1884, 250, § 3.
1899, 355, § 3.
1904, 404, § 3.

Division of city into aldermanic districts.
1884, 250, § 1.
1899, 355, § 1.
1904, 404, § 4.

The second district shall consist of wards three, four and five, and one candidate shall be nominated therein.

The third district shall consist of wards seven and eleven, and one candidate shall be nominated therein.

The fourth district shall consist of wards six and eight, and one candidate shall be nominated therein.

The fifth district shall consist of wards nine and ten, and one candidate shall be nominated therein.

The sixth district shall consist of wards eighteen and twenty-one, and one candidate shall be nominated therein.

The seventh district shall consist of wards thirteen, fourteen and fifteen, and two candidates shall be nominated therein.

The eighth district shall consist of wards sixteen, twenty and twenty-four, and two candidates shall be nominated therein.

The ninth district shall consist of wards twelve and seventeen, and one candidate shall be nominated therein.

The tenth district shall consist of wards nineteen and twenty-five, and one candidate shall be nominated therein.

The eleventh district shall consist of wards twenty-two and twenty-three, and one candidate shall be nominated therein.

Every candidate so nominated shall be a voter of the district from which he is nominated.

Nomination of
candidates.
1897, 361, § 5.
1899, 355, § 4.
1903, 426, § 2.
1904, 404, § 5.

SECT. 5. Every political party making nominations of candidates for aldermen in said city shall nominate thirteen candidates, as provided in the preceding section. Every nomination of a candidate by a political party shall be made by direct plurality vote at party primaries held in the several precincts of the wards in the district in which the candidate or candidates are to be nominated, and the name of the person who in the aggregate of all the votes cast in such primaries in a district receives the greatest number of votes shall have his name placed on the election ballot as a candidate of the party for alderman, except that in the seventh and eighth districts the person receiving the greatest number of such votes and the person receiving the next greatest number shall each have his name so placed thereon.

Nomination to
fill vacancies.
1899, 355, § 5.
1904, 404, § 6.

SECT. 6. In case of a failure to nominate in any district by reason of a tie vote, or of the death, withdrawal or ineligibility of any candidate nominated as aforesaid, the chairman and secretary of the city committee of the party holding the primary shall forthwith call together in convention the members of the ward committees in the wards comprising such district. Said chairman and secretary shall act as chairman and secretary, respectively, of the convention, but shall have no right to vote by virtue of their offices. The secretary shall call the roll of the convention, and each member shall rise and announce for whom he votes. The candidate receiving a majority of all the votes so cast shall be declared the candidate of the party from that district, and the chairman and secretary of the convention shall forthwith certify the fact to the election commissioners who shall place his name upon the election ballot.

SECT. 7. Nomination by nomination papers of a candidate to be voted for at such primaries shall be made only by nomination papers containing the signatures, in the aggregate, of not less than five voters of each ward in the district from which the nomination is to be made, who shall be members of the party holding the primary.

Nomination
papers of
candidates to
be voted for
at primaries.
1898, 355, § 6.
1903, 426, § 2.
1904, 404, § 7.

SECT. 8. Nomination by nomination papers of a candidate for alderman to be voted for at an election shall be made only by such papers containing the signatures of at least one voter for every one hundred votes cast for governor at the preceding annual state election in said city, and in no case of less than fifty voters.

Nomination
papers of
candidates to
be voted for at
elections.
1899, 355, § 7.
1904, 404, § 8.

SECT. 9. The ballots cast at such primaries and the returns for the candidates voted for thereat shall be returned to the election commissioners as ballots and returns of elections in said city are returned, and the commissioners shall have the same powers and perform the same duties in determining the results of such primaries as in determining the results of elections in the several precincts of the city. The commissioners shall place on the election ballot the names of all candidates nominated as aforesaid. All provisions of law relative to political conventions, nominations, primaries and elections and to the votes cast thereat, applicable to and not inconsistent with the preceding sections, shall apply to the conventions, nominations, primaries and elections herein provided for.

Ballots and
returns of
primaries.
1899, 355, §§ 8, 9.
1904, 404, § 9.

SECT. 10. Each alderman shall hold office for one year, beginning with the first Monday in January following his election, and he shall receive a salary of fifteen hundred dollars payable in equal monthly instalments.

Term of office
and salary.
1821, 110, § 6.
1854, 448, § 19.
1884, 250, § 3.
1888, 286, § 1.

ORGANIZATION AND CHAIRMANSHIP.

SECT. 11. After the organization of the city government in each year, and when a quorum of the board of aldermen shall be present, the member thereof who has previously served the greatest number of terms in said board shall preside, and the board shall then proceed to choose a permanent chairman, who shall preside at all meetings of the board and at conventions of the two branches of the city government. The member who shall so preside at said meeting shall continue to preside at all meetings of said board and at conventions of the two branches of the city government, with the same powers and duties as though he were chosen permanent chairman, until a permanent chairman shall have been chosen as hereinbefore provided. If there shall be no member of said board who has previously served a greater number of terms therein than any other member thereof, the city clerk shall preside at all meetings of said board and of said conventions until a permanent chairman shall have been chosen. The board of aldermen shall, until the election of a permanent chairman, said member or said city clerk presiding, be deemed to be organized for the transaction of all business which may properly come before it.

Organization
and chairman-
ship of board.
1821, 110, § 9.
1854, 448, §§ 17,
29.
1888, 558.

Quorum of board. Meetings. 1821, 110, § 11. 1854, 448, § 33.

Board to be judge of qualifications and elections. 1854, 448, § 24. 115 Mass. 383.

SECT. 12. A majority of the members of the board of aldermen shall constitute a quorum for the transaction of business and their meetings shall be public.

SECT. 13. The board of aldermen shall have authority to determine all questions relative to the qualifications and elections of the members thereof.

POWERS AND DUTIES.

General powers and duties. 1821, 110, § 13. 1854, 448, § 33. 142 Mass. 200. 171 Mass. 586. 184 Mass. 373.

Board to have powers of county commissioners. P. S. 22, § 30. 1885, 286, § 6. 1898, 217, § 3. R. L. 20, § 34. 163 Mass. 34.

Duties as to railroad corporations. 1874, 372, § 5. 1881, 91, § 1. P. S. 112, § 2. 1885, 194, § 2. R. L. 111, § 2. 1906, 463, pt. II., § 2.

SECT. 14. Except as otherwise expressly provided, all the powers formerly vested in the mayor and aldermen of the city or in the board of aldermen thereof shall be and hereby are vested in the board of aldermen as hereby constituted as fully and amply as if they were herein enumerated.

SECT. 15. Except as otherwise expressly provided, the board of aldermen shall have like powers and perform like duties within the city of Boston as are exercised and performed in their counties by the county commissioners of counties other than Suffolk.

SECT. 16. The duties imposed by the provisions of chapter four hundred and sixty-three of the acts of the year nineteen hundred and six upon county commissioners as a tribunal of original jurisdiction relative to the fixing of routes or to the location, construction, maintenance and operation of railroads shall, in the city of Boston, unless it is otherwise expressly provided, devolve upon the board of aldermen of said city. When in cases arising in said city a jury is required, application therefor shall be made to the superior court in the manner prescribed in section ninety of chapter forty-eight of the Revised Laws; and duties imposed upon the county commissioners by reference or appeal from the board of aldermen of other cities shall devolve upon the board of railroad commissioners.

Initial action to be by board. 1854, 448, § 48.

SECT. 17. In all cases in which anything is or may be required or authorized by any law or ordinance to be done by the mayor and aldermen the board of aldermen shall first act thereon; and any order, resolution or vote of said board shall be presented to the mayor for his approval.

Incurrence of expenses by members restricted. 1888, 286, § 1.

SECT. 18. No sum shall be paid from the city treasury for or on account of any personal expenses, directly or indirectly incurred, by or in behalf of any member of said board, except for the expense of carriage hire or car fare actually incurred in the performance of official duty; and in each case specifically authorized by vote of said board or of a regularly appointed committee thereof or of the city council. No bill for such carriage hire or car fare shall be paid unless it states the date when, the persons for whom, and the full service for which, it was incurred, nor unless a duly certified copy of a vote authorizing such bill shall be filed with the city auditor, accompanied in every case by a certificate signed by each member of the board who incurs each bill and stating that it was actually incurred by him for the purpose so authorized, on the day

specified, and for the service and to the extent and amount therein charged.

SECT. 19. All bills incurred and paid for carriage hire and car fare in accordance with the preceding section, and copies of all votes, and all certificates and other vouchers accompanying such bills shall be kept by the city auditor and be open to public inspection.

Custody and public inspection of such bills.
1888, 286, § 2.

SECT. 20. The board of aldermen shall provide, at the city hall or elsewhere within the limits of the city, a suitable safe or fire-proof vault of sufficient capacity to contain all the boxes or envelopes in which the ballots cast at the state and city elections are deposited, and the key of said safe or vault shall be in the sole custody of the board of election commissioners.

Preservation of ballots.
1884, 325, § 1.
1895, 449, § 4.

SECT. 21. No box of ballots so deposited or held shall be delivered by the custodians of said safe or vault except upon the written order of a duly authorized committee on elections of the board of aldermen, the common council, the school committee or a committee of the legislature.

Order for delivery of box of ballots.
1884, 325, § 2.

SECT. 22. The board of election commissioners shall receive the boxes or envelopes in which said ballots may be deposited from the persons whose duty it may be to deliver them.

Board of election commissioners to receive ballots.
1884, 325, § 3.

SECT. 23. Whoever wilfully violates any of the provisions of the three preceding sections shall be punished by a fine of not more than one thousand dollars or by imprisonment in the house of correction for not more than one year.

Penalty.
1884, 325, § 4.

SECT. 24. The enacting style and method of publishing rules and orders and regulations of the board of aldermen shall be such as said board may by regulation prescribe.

Enacting style of rules of board.
1892, 97.

CHAPTER 5.

THE COMMON COUNCIL.

ELECTION.	POWERS AND DUTIES.
SECTION	SECTION
1. Election of members of common council. 2. Vacancies, how filled.	3. Meetings of common council. Quorum. 4. President and clerk. 5. Council to be judge of qualifications and elections. 6. Salaries of members.

ELECTION.

SECTION 1. The male voters in each ward shall, annually, at the annual city election, choose three qualified voters in said ward to be members of the common council for one year from the first Monday in the January following their election.

Election of members of common council.
1821, 110, § 7.
1854, 448, § 20.
1875, 243, § 2.
1876, 242, § 3.
1888, 175, § 1.
1891, 88.
Vacancies, how filled.
1854, 448, § 21.
22, 23, 25.
1880, 225, § 5.

SECT. 2. If a vacancy shall occur in the common council from failure to elect, removal from the city, death, resignation or otherwise, the board of aldermen shall, after the receipt of official notice of the existence of such vacancy, call a meeting of the voters of the ward in which such vacancy exists, for the purpose of filling it.

POWERS AND DUTIES.

Meetings of
common
council.
Quorum.
1821, 110, § 11.
1854, 448, § 34.
1872, 15.

SECT. 3. The members of the common council shall sit and act together as a separate body, distinct from that of the board of aldermen, except when both branches meet in convention. All sittings of the common council shall be public, and a majority of all the members thereof shall constitute a quorum for the transaction of business.

President
and clerk.
1821, 110, § 11.
1854, 448, §§ 17,
34.

SECT. 4. The common council may, from time to time, choose a member thereof as president to preside over its deliberations and to preserve order therein. It may also choose a clerk who shall be sworn to the faithful performance of his official duties, who shall hold such office during the pleasure of said council, and who shall attend its sessions, keep a journal of its acts, votes and proceedings and perform such other clerical services as it may require.

Council to be
judge of qual-
ifications and
elections.
1854, 448, § 24.

SECT. 5. The common council shall have authority to determine all questions relative to the qualification and election of its members.

115 Mass. 388. 120 Mass. 118, 123.

Salaries of
members.
1896, 410.

SECT. 6. Each member of the common council shall receive a salary of three hundred dollars, and no money shall be paid from the city treasury for or on account of refreshments, carriage hire or other personal expenses incurred, directly or indirectly, by or in behalf of any member of the common council or any committee thereof.

CHAPTER 6.

THE CITY COUNCIL.

IN GENERAL.

SECTION

1. Oath of office.
2. Organization in absence, etc., of mayor.
3. Ineligibility to other offices.

POWERS AND DUTIES.

4. General powers of city council.
5. Enacting style of ordinances.

SECTION

6. Disposition of penalties for breach of ordinances.
7. Authority to establish city offices.
8. Appropriations by city council.
9. Annual financial statement.
10. Assessment and collection of taxes.
11. Bonds may be required.
12. Appropriations for temporary relief of poor.
13. Limitation of authority of city council.

IN GENERAL.

Oath of office.
1821, 110, § 9.
1854, 448, § 27.

SECTION 1. The members elect of the board of aldermen and of the common council, on the first Monday of January, or before entering upon the performance of their official duties, shall respectively be sworn by taking the oath of allegiance and oath of office prescribed in the constitution of this commonwealth, and an oath to support the constitution of the United States. Such oath may be administered to them by the mayor, being himself first sworn, or by any of the persons authorized by section six of chapter three of this consolidation to administer

the oath of office to the mayor; and a certificate of the administration of such oaths shall be entered in the journal of the board of aldermen and of the common council, respectively, by their respective clerks.

SECT. 2. If, by reason of illness, or otherwise, the mayor elect is unavoidably absent on the first Monday in January, or if, at the city election last preceding said first Monday and when a mayor is to be chosen, no person shall have been elected, the oaths prescribed by law may be administered to the members elect. The board of aldermen shall thereupon proceed to elect a chairman, and the common council a president, in their respective chambers; and, being respectively organized, they shall proceed to business in the same manner as if the mayor were present or elected.

Organization
in absence,
etc., of mayor.
1854, 448, §§ 17,
28.

SECT. 3. No member of the city council shall, during the term for which he is elected, be appointed to or hold any office by appointment of the mayor and confirmation by the board of aldermen, or be eligible to any office by appointment or by election of said city council or of either branch thereof the salary of which is payable out of the city treasury, nor be eligible to the office of assistant assessor, nor shall he, while such member, hold any office of emolument under the city government.

Ineligibility to
other offices.
1854, 448, § 43.
1884, 115.
1885, 286, § 3.

POWERS AND DUTIES.

SECT. 4. Except as otherwise expressly provided, all powers heretofore by law vested in the town of Boston, or in the inhabitants thereof as a municipal corporation, or in the city council of the city of Boston, shall be, and hereby are, continued to be vested in the mayor, board of aldermen and common council of said city, to be exercised by concurrent vote, each branch having a negative upon the proceedings of the other, and the mayor having a veto power as hereinbefore provided. More especially they shall have authority to make all such needful and salutary by-laws or ordinances, not inconsistent with the laws of this commonwealth as cities are authorized by general laws to make and establish, and to prescribe penalties of not more than fifty dollars for the breach thereof. Such by-laws or ordinances shall be presented to the mayor for his approval or disapproval as provided in section ten of chapter three of this consolidation; and, if approved by him, shall take effect and be in force from and after the time therein limited, without the sanction or confirmation of any court or authority whatsoever.

General pow-
ers of city
council.
1821, 110, § 15.
1854, 448, § 35.
3 Pick. 462.
6 Pick. 187.
11 Pick. 168.
16 Pick. 504.
9 Met. 253.
2 Cush. 562.
109 Mass. 355.
115 Mass. 217.
117 Mass. 114.
124 Mass. 213,
330.
133 Mass. 372.
154 Mass. 62.
165 Mass. 281.
184 Mass. 373.
192 Mass. 15.

SECT. 5. The enacting style and method of publishing the ordinances of the city shall be such as the city council shall, by ordinance, prescribe.

Enacting style
of ordinances.
1881, 229, § 3.

SECT. 6. All fines and penalties imposed for the breach of any ordinance shall be paid over to the collector of the city of Boston for the use of said city, unless otherwise provided by ordinance.

Disposition of
penalties for
breach of or-
dinances.
1881, 229, § 4.

Authority to
establish city
offices.
1821, 110, § 18.
1854, 448, § 38.
1881, 229, § 1.
1885, 266, § 1.
1890, 418, § 1.

SECT. 7. The city council may, by ordinance, provide for the appointment or election of all such officers as may be necessary for the good government of the city whose appointment or election is not authorized by statute, prescribe their duties and fix their compensation; and, if such officers are in sole or joint charge of a department, shall, unless their term of office is defined by statute, by ordinance prescribe such term, which shall not exceed three years from the first day of May in the year of their appointment and until their respective successors are elected or appointed and confirmed. Said council may choose a register of deeds whenever the city shall be one county.

Appropriations by city council.
1821, 110, § 15.
1854, 448, § 37.

SECT. 8. The city council shall have authority to make appropriations of all public moneys, except for the support of the public schools, provide for the disbursement thereof, and take suitable measures to insure a just and prompt account thereof.

Annual financial statement.
1821, 110, § 20.
1854, 448, § 61.

SECT. 9. It shall be the duty of the city council to cause to be published and distributed annually, for the information of the citizens, a particular statement of the receipts and expenditures of all public moneys, and a particular statement of all city property.

Method of assessing taxes.
1821, 109, § 13.
1821, 110, § 15.
1822, 85.

SECT. 10. The city council shall direct whether all taxes assessed for county or city purposes shall be assessed separately as county taxes and as city taxes or under the name of city taxes only. R. S. 7, § 26; 14, § 24. 1854, 448, §§ 36, 37. G. S. 11, § 30. P. S. 11, § 47. R. L. 12, § 53. 13 Mass. 372. 12 Pick. 227. 23 Pick. 71.

Bonds, may require.
1821, 110, § 15.
1854, 448, § 37.

SECT. 11. The city council may require of all persons who are entrusted with the collection, custody or disbursement of public moneys such bonds, with such conditions and such surety or sureties, as circumstances may, in their judgment, require.

Appropriations for temporary relief of poor.
1874, 374.

SECT. 12. The city council may appropriate, out of any funds in the city treasury not otherwise appropriated, or raise by taxation and appropriate such amounts as they may by vote determine for temporary aid to the poor; but the amount so appropriated in any one year shall not exceed one fifteen-hundredth of one per cent. of the valuation of the city for the then current year. The city council shall keep a separate account of all money appropriated under this section.

Limitation of authority of city council.
1885, 266, § 12.
157 Mass. 177.
163 Mass. 34.
184 Mass. 373.

SECT. 13. Neither the city council nor either branch thereof, nor any member or committee thereof, or of either branch thereof, nor the board of aldermen acting in any capacity in which said board may act separately under special powers conferred upon it, nor any member or committee thereof acting in any such capacity, shall, directly or indirectly, take part in the employment of labor, the making of contracts, the purchase of material or supplies, the construction, alteration or repair of any public works, buildings or other property, or the care, custody and management thereof, or in the conduct of any of the executive or administrative business of the city, or in the expenditure of public money, except such as may be necessary for the contingent and incidental expenses of the city council, or of either branch thereof; nor, except as is otherwise provided in section

nine of chapter three and section one of chapter eight of this consolidation in the appointment or removal of any officers or subordinates for whose appointment and removal provision is elsewhere made; but the provisions of this section shall not affect the powers or duties of the board of aldermen relative to state or military aid and soldiers' relief.

TITLE IV.

OF ADMINISTRATIVE OFFICERS AND DEPARTMENTS

- CHAPTER 7. — General Provisions relative to Officers and Departments.
 CHAPTER 8. — The City Clerk.
 CHAPTER 9. — The City Treasurer and Matters of Finance.
 CHAPTER 10. — The City Collector.
 CHAPTER 11. — The Art Department.
 CHAPTER 12. — The Assessing Department.
 CHAPTER 13. — The Building Department.
 CHAPTER 14. — The Cemetery Trustees.
 CHAPTER 15. — The Children's Institutions Department.
 CHAPTER 16. — The Election Department.
 CHAPTER 17. — The Engineering Department.
 CHAPTER 18. — The Fire Commissioner.
 CHAPTER 19. — The Health Department.
 CHAPTER 20. — The Hospital Department.
 CHAPTER 21. — The Insane Hospital Department.
 CHAPTER 22. — The Institutions Registration Department.
 CHAPTER 23. — The Library Department.
 CHAPTER 24. — The Park Commissioners.
 CHAPTER 25. — The Pauper Institutions Trustees.
 CHAPTER 26. — The Penal Institutions Commissioner.
 CHAPTER 27. — The Poor Department.
 CHAPTER 28. — The Registry Department.
 CHAPTER 29. — The Soldiers' Relief Department.
 CHAPTER 30. — Streets.
 CHAPTER 31. — The Water Department.
 CHAPTER 32. — The Wire Department.

CHAPTER 7.

GENERAL PROVISIONS RELATIVE TO OFFICERS AND DEPARTMENTS.

TENURE OF OFFICE AND REMOVALS. SECTION

1. Commencement of term of elective officers.
2. of certain appointive officers.
3. of department officers.
4. Removal from office.

EMPLOYEES AND SUBORDINATES.

5. Definition of "subordinate."
6. Tenure of office of subordinates.
7. Payments to widows, etc., of deceased employees.

PUBLIC CONTRACTS AND EXPENDITURE OF PUBLIC MONEY.

SECTION

8. Officers and boards to make contracts and to have care of property.
9. Certain contracts to be approved by mayor.
10. Proposals to be accompanied by bond.
11. Certain contracts to be in writing and approved by mayor.
12. Supervision of construction of buildings.
13. Estimates to mayor.

PUBLIC CONTRACTS AND EXPENDITURE
OF PUBLIC MONEY.—*Concluded.*

SECTION

14. Agreements as to land damages.

INFORMATION TO CITY COUNCIL.

15. Heads of departments to furnish information.

SECTION

16. Committee to obtain information.

17. Heads of departments may be required to testify.

TENURE OF OFFICE AND REMOVALS.

SECTION 1. Municipal officers who are chosen at an annual city election shall enter upon the duties of their respective offices on the first Monday of January following such election.

Commence-
ment of term
of elective
officers.
1831, 110, § 9.
1854, 448, § 6.

SECT. 2. All officers who are appointed by the mayor and confirmed by the board of aldermen, except such as are specified in the following section, shall hold office for the term of one year, beginning with the first day of May in the year of their respective appointments, and until their respective successors are appointed and confirmed.

—of certain
appointive off-
cers.
1885, 266, § 4.
1890, 418, § 1.

SECT. 3. Every officer having sole or joint charge of a department whose term is not defined by statute shall hold office for such term, not exceeding three years, beginning with the first day of May in the year of his appointment, as the city council may, by ordinance, determine, and until his successor is appointed and confirmed; but all members of boards and all trustees whose terms are prescribed by the statutes creating them shall hold office for such terms as said statutes prescribe and until their respective successors are appointed and confirmed; and such terms shall begin with the first day of May in the year of their respective appointments.

—of depart-
ment officers.
1885, 266, § 4.
1890, 418, § 1.

SECT. 4. Unless otherwise expressly provided, any officer or member of a board who is appointed by the mayor may be removed by him for such cause as he shall deem sufficient and shall assign in his order of removal.

Removal from
office.
1854, 448, § 49.
1881, 229, § 1.
1885, 266, § 4.
1890, 418, § 1.
149 Mass. 443.

EMPLOYEES AND SUBORDINATES.

SECT. 5. The term "subordinate" in all statutes relating to the city of Boston or to its departments shall be construed to include only assistants, deputies, clerks and other officers who are appointed by an officer or board in charge of a department and are paid a yearly salary.

Definition of
subordinate.
1890, 418, § 2.

SECT. 6. Every subordinate shall continue to hold his office until removed by the officer or board in charge of the department in which he is employed for such cause as such officer or board shall deem sufficient and shall assign in the order of removal.

Tenure of
office of subor-
dinates.
1885, 266, § 5.
1890, 418, § 3.
1906, 210.
149 Mass. 443.
133 Mass. 547.

SECT. 7. If the city council, by a majority vote of each branch thereof, taken by a call of the yeas and nays and approved by the mayor, accepts the provisions of this section, the city may, if authorized so to do by a two-thirds vote of each branch of the city council, taken by a call of the yeas and nays and approved by the mayor, pay a sum of money not exceeding two hundred and fifty dollars to the widow of an employee who may

Payments to
widows, etc.,
of deceased
employees.
1903, 449.

die in the service of the city after not less than five years of continuous service therein; and, if there shall be no widow, such sum may be paid to the next of kin if they were, at the time of the death of such employee, dependent upon his wages for support.

PUBLIC CONTRACTS AND EXPENDITURE OF PUBLIC MONEY.

Officers and boards to make contracts and to have care of property.
1821, 110, § 16.
1854, 448, §§ 89, 51.
1885, 266, § 6.
142 Mass. 200.
148 Mass. 578.
580.
168 Mass. 230.

SECT. 8. Officers and boards shall, in their respective departments, make all necessary contracts for the employment of labor, the supply of materials and the construction, alteration and repair of all public works and buildings. They shall have the entire care, custody and management of all public works, institutions, buildings and other property. They shall, moreover, have the direction and control of all the executive and administrative business of the city, and shall, at all times, be accountable for the proper discharge of their duties to the mayor as chief executive officer, and to the mayor and city council for the expenditure of public money with which they are entrusted. They shall make no expenditure nor incur any liability for any purpose beyond the appropriation duly made therefor, except as provided in section three of chapter nine of this consolidation.

Certain contracts to be approved by mayor.
1890, 418, § 4.
168 Mass. 239.
181 Mass. 6.
187 Mass. 451.

SECT. 9. Every officer or board in charge of a department in said city, when authorized to erect a new building or to make structural changes therein, shall make contracts therefor, not exceeding five, each contract to be subject to the approval of the mayor; and when about to do any work or to make any purchase, the estimated cost of which amounts to or exceeds two thousand dollars, shall, unless the mayor gives a written authority to do otherwise, invite proposals therefor by advertisements in not more than four daily newspapers published in said city, such advertisements to state the time and place for opening the proposals in answer to said advertisements, and reserving in such invitations the right to the officer or board to reject any or all proposals.

Proposals to be accompanied by bond.
1890, 418, § 5.
168 Mass. 239.
187 Mass. 451.

SECT. 10. Every proposal for doing such work or making such sale shall be accompanied by a suitable bond, certified check, or certificate of deposit, for the faithful performance of such proposal, and all such proposals shall be kept by the officer or board inviting the same, and shall be open to public inspection after said proposals have been accepted or rejected.

Certain contracts to be in writing and approved by mayor.
1890, 418, § 6.
168 Mass. 239.
181 Mass. 6.
187 Mass. 451.

SECT. 11. All contracts made by any department of the city of Boston shall, when the amount involved is two thousand dollars or more, be in writing, and no such contract shall be deemed to have been made or executed until the approval of the mayor in writing is affixed thereto. All such contracts shall be accompanied by a suitable bond or deposit of money or other security for the faithful performance of such contracts, and such bond, money or security shall be deposited with the city auditor until the contract has been carried out in all respects; and no such contract shall be altered except by a written agreement of the contractor, the sureties on his or their

bond, and the officer or board making the contract, with the approval of the mayor affixed thereto.

SECT. 12. Any building which may be required by the city for the use of any department shall be built by such department, and a building which is not required for such use shall be built by such of the heads of departments or other officers appointed by the mayor as he shall from time to time determine; but the plans of all buildings shall be subject to the approval of any officer or board specified in the statutes relating thereto and of the mayor, and the selection of the architect shall be subject to the approval of the mayor. But the provisions of this section shall not limit or affect the powers and duties of the board of schoolhouse commissioners under the provisions of section sixteen of chapter thirty-three of this consolidation.

Supervision of construction of buildings.
1883, 448, § 22.
1896, 286.

SECT. 13. Heads of departments and all other officers and boards having authority to expend money shall annually furnish an estimate to the mayor of the money required for their respective departments and offices during the following financial year. The mayor shall examine such estimates, and submit them, with his recommendations thereon, to the city council.

Estimates to mayor.
1885, 286, § 8.

SECT. 14. No agreement as to damages sustained by any person in his property by the taking by the city, or by the board of street commissioners, or by any other board or department, of land for said city, shall be deemed to have been made or executed unless it is in writing and has the approval of the mayor affixed thereto; but this section shall not apply to agreements entered into by any officer in charge of the law department of said city in any suit relating to such damages.

Agreements as to land damages.
1897, 202, § 2.
1898, 340.

INFORMATION TO CITY COUNCIL.

SECT. 15. Each branch of the city council may require from the head of any department full information relative to the expenditure of any moneys or funds of the city under the charge of said department or relative to the employment of labor or the establishment or abolition of any office in said department, and such head of a department shall furnish such information to either branch of the city council upon its request therefor.

Heads of departments to furnish information.
1899, 478, § 1.

SECT. 16. Upon the neglect or refusal of any such head of a department to furnish information to either branch of the city council, as required by the provisions of the preceding section, said branch may appoint a special committee of its own members with authority to obtain such information. Such committee may summon any such head of a department to appear before it, to produce books and papers before it and to submit to an examination under oath touching the matter of such inquiry.

Committee to obtain information.
1899, 478, § 2.

SECT. 17. A justice of the supreme judicial court or of the superior court, upon the application of the chairman of such committee, may in his discretion compel the attendance of such head of a department, and the giving of testimony by him before said committee in the same manner and to the same extent as before said courts.

Heads of departments may be required to testify.
1899, 478, § 3.

CHAPTER 8.

THE CITY CLERK.

SECTION

1. Choice, term, oath and duties of city clerk.

Choice, term, oath and duties.
1821, 110, § 10.
1854, 448, § 20.
1885, 286, §§ 2, 4.
1901, 332.
E. L. 26, § 15.
93 Mass. 39, 43.

SECTION 1. The city clerk shall, in January of the year nineteen hundred and eight, and of every third year thereafter, be chosen by the city council by concurrent vote for the term of three years from the day of his election and until his successor shall have been duly chosen and qualified unless sooner removed by due process of law. He shall be denominated the city clerk, shall be sworn to the faithful performance of the duties of his office, shall keep a journal of the acts and proceedings of the board of aldermen, sign all warrants issued by them, perform such other duties as are or may lawfully and reasonably be required of him by statute or ordinance and deliver over to his successor all journals, books, papers and documents entrusted to him as clerk, immediately upon the choice and qualification of such successor or whenever he may be so required by the board of aldermen.

Vacancy in office, how filled.
1854, 448, § 31.
1901, 332.
E. L. 26, § 15.
Clerk pro tempore.
1854, 448, § 32.

SECT. 2. A person who is elected to fill a vacancy in the office of city clerk shall hold the office until the end of the unexpired term of the person who last held the office.

SECT. 3. In case of the temporary absence of the city clerk and the assistant city clerk, the mayor, by and with the advice and consent of the board of aldermen, may appoint a city clerk pro tempore.

SECTION

2. Vacancy in office, how filled.
3. Clerk pro tempore.

CHAPTER 9.

THE CITY TREASURER AND MATTERS OF FINANCE.

THE CITY TREASURER.

SECTION

1. Appointment, term, removal, etc., of treasurer.
2. City treasurer to be county treasurer.

MATTERS OF FINANCE.

3. Expenditures in anticipation of appropriations authorized.
4. Transfer of appropriations regulated.
5. Borrowing of money regulated.
6. Borrowing for purposes included in debt limit regulated.
7. Transfers from funds obtained by loan regulated.
8. Use of borrowed money for appropriations to be met by loan.

SECTION

9. City treasurer to issue bonds, etc.
10. Terms and interest.
11. Ratification of certain bonds.
12. Determination of form of bonds.
13. Dates of issue of bonds regulated.
14. Disposition of interest on securities held in sinking fund.
15. Invitation of proposals for purchase of bonds.
16. Sale of bonds to trustees of public school teachers' retirement fund.
17. Limit of rate of taxation in city of Boston.
18. Fees and commissions payable into city treasury.
19. Exemption of city of Boston from fees of clerks of courts.

THE CITY TREASURER.

Appointment by mayor, term, removal, etc.

SECTION 1. The mayor shall annually appoint, subject to confirmation by the board of aldermen, a city treasurer for the

term of one year, beginning with the first day of May in the year of his appointment and until his successor is appointed and confirmed, and may remove him as provided in section four of chapter seven of this consolidation.

SECT. 2. The treasurer of the city of Boston shall also be treasurer of the county of Suffolk.

P. S. 23, § 2. R. L. 21, § 5.

1821, 110, § 18.
1854, 448, § 42.
1875, 178, § 1.
1885, 266, § 1.
1890, 418, § 1.

City treasurer
to be county
treasurer.
1864, 448, § 42.
G. S. 17, § 44.

MATTERS OF FINANCE.

SECT. 3. At the beginning of the financial year, to meet the liabilities of the several departments incurred in the carrying on of the work intrusted to them, until the city government shall otherwise order, expenditures may be made, liabilities may be incurred and payments made from the treasury from any funds therein, and the treasurer may borrow money in anticipation of taxes to provide funds. Such expenditures and liabilities shall not exceed, for each department, one-third the entire amount appropriated for the department for the previous year, and shall be considered and reckoned as a part of the expenditures of, and the money paid therefor as a part of the appropriations for the current financial year.

Expenditures
in anticipation
of appropri-
ations author-
ized.
1885, 266, § 6.
1889, 320.

SECT. 4. After an appropriation of money has been duly made by the city government of Boston for any specific purpose, or for the needs and expenditures of any department, no transfer of any part of the money thus appropriated shall be made except within the department, or in accordance with and after the written recommendations of the mayor to the city council, approved by the yeas and nays vote of two-thirds of the members of each branch thereof.

Transfer of
appropriations
regulated.
1893, 261.

SECT. 5. The commissioners of sinking funds of the city of Boston, together with the treasurer and auditor of said city, shall before the first day of April in each year certify to the city council their estimate of the amount which said city will be able to borrow during the current municipal year within the debt limit established by law; and said city is hereby authorized to borrow such estimated amount, or any portion thereof, at any time or times during such current municipal year.

Borrowing of
money regu-
lated.
1891, 93.

SECT. 6. The city of Boston shall not borrow any money for purposes taken into account in determining its debt limit, unless the mayor shall in writing certify upon the order authorizing the loan that the amount intended to be so borrowed is not, in his opinion, to meet a current expense, or that such money is to meet a current expense, but that public necessity requires the borrowing of the same.

Borrowing for
purposes
included in
debt limit reg-
ulated.
1891, 206, § 1.

SECT. 7. No transfer from any fund obtained by a loan shall be made unless the mayor shall in writing certify upon the order authorizing the transfer that such transfer is not, in his opinion, to meet a current expense, or that such transfer is to meet a current expense, but that public necessity requires such transfer to be made.

Transfers
from funds
obtained by
loan regulated.
1891, 206, § 2.

Use of bor-
rowed money
for appropria-
tions to be met
by loan.
1888, 192.

SECT. 8. The city auditor and the city treasurer of the city of Boston may, when so directed by the mayor of said city, use for any appropriation to be met by a loan, any funds in the city treasury raised by loan, whether under authority of any general or any special act; the amount so used to be replaced before the close of the financial year of said city, from funds raised as provided by law for meeting the appropriations for which such amount was used.

City treasurer
to issue bonds,
etc.
1891, § 21.
1898, 471, § 1.

SECT. 9. The city treasurer of the city of Boston from time to time on the request of the mayor of said city that he will issue notes, bonds or scrip of said city for any purpose for which said treasurer has heretofore been authorized to issue certificates of indebtedness, or notes, bonds or scrip of said city, or for any purpose for which said treasurer shall hereafter by act of the legislature or by vote of the city council be authorized to issue certificates of indebtedness, or notes, bonds or scrip of said city, shall issue to the amount stated in the request, registered or coupon bonds or certificates of said city, not exceeding in all, for any purpose, the amount which said city is or shall be authorized to borrow for that purpose.

Terms and
interest.
1898, 471, § 2.
1902, 522, § 1.

SECT. 10. All bonds or certificates of said city hereafter issued by said treasurer shall be for such terms, not exceeding forty years, and bear such rates of interest, not exceeding four per cent. per annum, and the interest shall be payable at such times, as said treasurer and mayor shall determine, anything in any general or special act to the contrary notwithstanding. Any premiums coming to the city in the negotiation or sale of any bonds or certificates hereafter issued shall be paid into the sinking funds for the redemption thereof.

Ratification of
certain bonds.
1902, 522, § 2.

SECT. 11. All bonds of the city of Boston issued prior to the twenty-seventh day of June in the year nineteen hundred and two are hereby ratified and confirmed as legal bonds and obligations of said city; and any bonds of said city offered for sale prior to said date for terms not exceeding forty years may be issued in accordance with the offer.

Determination
of form of
bonds.
1896, 163.

SECT. 12. All notes, bonds or scrip of the city of Boston, whether heretofore or hereafter authorized by the legislature or the city council of said city, other than those to be paid from the taxes of the year in which they are issued, shall, as the city treasurer of said city shall determine, be coupon bonds or registered certificates, and bear interest at a rate not exceeding four per cent. per annum, payable semi-annually at such times as the mayor and said treasurer shall determine.

Date of issue
of bonds regu-
lated.
1903, 191, § 1.

SECT. 13. All bonds and certificates of the city of Boston shall, in determining the debt limit, be considered as issued on the date on which they are authorized, and may actually be issued and sold in such amounts and at such times during the year in which they are authorized, or thereafter, as the mayor shall from time to time request, anything in any special or general law to the contrary notwithstanding.

SECT. 14. The interest received in any year on securities held in the sinking fund of the city of Boston for the bonds of that city, issued for the purpose of supplying its inhabitants with water, in excess of the amount required in that year, to provide a sinking fund sufficient to meet said bonds at maturity, shall be applied to the payment of the assessments which the city is required to pay into the treasury of the commonwealth on account of the construction, maintenance and operation of the metropolitan water works. If the net income received by the city of Boston in any year from its water works is not sufficient to meet the payments which can by law be made therefrom, the balance shall be raised by loan, if the city shall so determine, prior to the first day of September, otherwise by taxes, and such loans may be made and such taxes assessed without further authority therefor.

Disposition of interest on securities held in sinking fund. 1908, 191, § 2.

SECT. 15. The treasurer of the city of Boston, when authorized to issue any bonds or certificates of indebtedness of said city, except for a loan in anticipation of taxes for the year in which the loan is made, shall, unless the commissioners of the sinking funds or persons having charge of any trust funds of said city purchase the same, invite proposals for the purchase thereof by advertisements in four daily newspapers, published in said city, reserving to himself the right to reject any and all bids; in case no such proposal is accepted, the treasurer may, with the approval of the mayor, award or give any part of the loan, or the entire loan, in parts to any other person or party, provided only it be at a price or sum not less than par. The rate of interest on such certificates of indebtedness for a loan in anticipation of taxes shall be fixed by said treasurer.

Invitation of proposals for purchase of bonds. 1890, 418, § 7.

SECT. 16. The treasurer of the city of Boston is hereby authorized to sell to the trustees of the Public School Teachers' Retirement Fund, and the said trustees are hereby authorized to buy bonds of the city of Boston, upon the same terms and in such manner as the said treasurer is now authorized to sell such bonds to the board of commissioners of sinking funds of the city of Boston.

Sale of bonds to trustees of public school teachers' retirement fund 1902, 238.

SECT. 17. In the city of Boston, the taxes assessed on property, exclusive of state tax, county tax and sums required by law to be raised on account of the city debt shall not in any year exceed ten and one-half dollars on every one thousand dollars of the average of the assessors' valuations of the taxable property therein for the preceding three years, said valuation for each year being first reduced by the amount of all abatements allowed thereon previous to the thirty-first day of December in the year preceding said assessment. Any order or appropriation requiring a larger assessment than is herein limited shall be void.

Limit of rate of taxation in the city of Boston. 1885, 178. 1887, 281. 1900, 349. R. L. 123, § 4. 166 Mass. 347, 363. 179 Mass. 321.

SECT. 18. All fees, charges and commissions of every kind and description allowed by law for the collection of taxes, bet-
terments, rates and assessments of every kind to any person or persons authorized to collect the same shall be collected and

Fees and commissions payable into city treasury. 1875, 176, § 3.

paid by such persons into the treasury of the city of Boston and shall become the property of said city. The said city is hereby authorized to pay to such persons such compensation for their services as the city council shall from time to time determine.

Exemption of
city of Boston
from fees of
clerks of
courts.
1902, 268.

SECT. 19. In civil actions in which the city of Boston is a party, no fee or expense shall be paid to any clerk of a court of Suffolk county by or on behalf of the city; but, if the city prevails, the fees allowed by law shall be taxed.

CHAPTER 10.

THE CITY COLLECTOR.

SECTION

1. Appointment, term, removal of collector.
2. Bond and compensation.

SECTION

3. General powers and duties.
4. Appointment of deputies.

Appointment
by mayor,
term, removal.
1875, 176, § 2.
1885, 206, § 1.
1890, 418, § 1.

SECTION 1. The mayor shall annually appoint, subject to confirmation by the board of aldermen, a collector of the city for the term of one year, beginning with the first day of May in the year of his appointment and until his successor is appointed and confirmed, and may remove him as provided in section four of chapter seven of this consolidation.

Bond and
compensation.
1875, 176, § 2.

SECT. 2. The collector shall give bond, with such sureties, and in such sum, and shall receive such compensation as the city council shall determine.

General
powers and
duties.
1802, 7, § 3.
1875, 176, § 2.

SECT. 3. The collector shall be the collector of taxes for the city of Boston, and shall also collect and receive all other assessments, betterments, rates, dues and moneys which may be payable on any account to said city or the county of Suffolk, and shall pay over to the city treasurer any and all money received by him within twenty-four hours after its receipt, taking the treasurer's receipt therefor in duplicate, and filing with the city auditor one of said duplicates.

Appointment
of deputies.
1802, 7, § 3.
1808, 15, § 1.

SECT. 4. The collector may appoint deputies or assistants, who shall give bonds for the faithful performance of their duty in such sums and with such sureties as the city council may determine. The collector and his deputies shall have the same powers and duties as collectors of taxes in towns, and may collect all such taxes as may be outstanding and uncollected at the time of their appointment.

CHAPTER 11.

THE ART DEPARTMENT.

SECTION 1. Board of art commissioners, appointment, terms, etc.

SECTION 1. There shall be an art department of the city of Boston which shall be under the charge of a board of five art commissioners. The commissioners shall be citizens of said city, and one of them shall, annually, on or before the first day of May, be appointed by the mayor, without confirmation by the board of aldermen, for the term of five years beginning with said day. The members of the board shall be appointed as follows: — one from a list of three persons selected by the trustees of the Museum of Fine Arts, one from a list of three persons selected by the trustees of the Boston Public Library, one from a list of three persons selected by the trustees of the Massachusetts Institute of Technology, one from a list of three persons selected by the Boston Art Club and one from a list of three persons selected by the Boston Society of Architects; and whenever the term of a member of the board appointed from such a list expires, the mayor shall appoint his successor from a list selected by the body which made the original selection as aforesaid. The members of said board shall serve without compensation and may appoint a secretary outside of its own membership who also shall serve without compensation.

Board of art
commis-
sioners,
appointment,
term, etc. *
1890, 122, § 1.
1898, 410, § 1.

CHAPTER 12.

ASSESSORS.

SECTION

1. Assessors, appointment, election, etc.

SECTION

2. Assistant assessors, appointment, term, etc.

SECTION 1. The city council may, by ordinance, provide for the appointment by the mayor, subject to confirmation by the board of aldermen, of such assessors as may be needful, for such term, not exceeding three years, beginning with the first day of May in the year of their respective appointments, as said council may determine, and until their respective successors are appointed and confirmed.

Assessors,
appointment,
election, etc.
1891, 110, § 15.
1894, 448, § 37.
1891, 229, § 1.
1895, 206, § 1, 4.
1890, 418, § 1.

SECT. 2. Assistant assessors shall, on or before the tenth day of April in the year of their respective appointments, be appointed by the assessors, subject to confirmation by the mayor, and may be removed by the assessors for such cause as they shall deem sufficient and shall assign in their order of removal. First assistant assessors shall be appointed for a term of three years and shall receive such compensation as the city council may, by ordinance, establish. Each grade of assist-

Assistant
assessors,
appointment,
term, etc.
1891, 110, § 15.
1894, 448, § 37.
1894, 123, § 1.
1895, 206, § 2.
1894, 276.
1890, 227.
1901, 400, § 1.

ant assessors shall be appointed in equal numbers from the two leading political parties, and shall, on or before said tenth day of April, be assigned to the several assessment districts in such manner that the assistant assessors assigned to any district shall equally represent such political parties.

CHAPTER 13.

THE BUILDING DEPARTMENT.

SECTION

1. Building commissioner, appointment, qualifications, etc.
2. Inspectors, assistants, etc., appointment of.
3. Deputy, appointment of.
4. Officers of department not to engage in other business.

SECTION

5. Duties of building commissioner in general.
6. Board of appeal.
7. Annual report of board.

Building commissioner, appointment, qualifications, etc.
 1871, 280, §§ 1, 4, 6.
 1885, 374, §§ 1, 2, 4.
 1890, 418, § 1.
 1892, 419, §§ 1, 2.
 1894, 443, § 1.
 1895, 449, § 24.
 1907, 550, § 1.
 118 Mass. 118.
 175 Mass. 394.
 193 Mass. 364.

Inspectors, assistants, etc., appointment of.
 1871, 280, § 5.
 1885, 374, §§ 3, 6.
 1892, 419, §§ 3, 6.
 1907, 550, § 1.

Deputy, appointment of.
 1895, 449, § 24.
 1907, 550, § 1.

Officers of department not to engage in other business.
 1892, 419, § 4.
 1907, 550, § 1.

Duties of building commissioner

SECTION 1. There shall be a building department of the city of Boston which shall be under the charge of a building commissioner. The commissioner shall have had experience as an architect, a builder or a civil engineer for at least five years, and he shall be appointed by the mayor, without confirmation by the board of aldermen, for the term of five years, beginning with the first day of May in the year of his appointment and until his successor is appointed. He shall receive such salary as the city council, subject to the approval of the mayor, shall determine, and shall annually submit to the mayor a report in writing of the business of the department.

SECT. 2. The commissioner may appoint, subject to the approval of the mayor, such number of inspectors, employees and assistants as the city council shall, from time to time, determine. No person shall be appointed as an inspector of construction who shall not have had experience as an architect, a builder or a civil engineer, or as a superintendent or foreman or a competent mechanic in charge of construction for at least five years. The clerk of the department shall, under the direction of the commissioner, keep a record of the business of the department, and its records shall be open to public inspection.

SECT. 3. The building commissioner may appoint an inspector in the department as his deputy, who shall, during the absence or disability of the commissioner, exercise all the powers of the commissioner.

SECT. 4. No officer connected with the building department shall engage in any other business or be interested in the doing of work or the furnishing of material for the construction, repair or maintenance of any building, or in the making of plans or of specifications therefor, unless he is the owner of the building or a member of the board of appeal.

SECT. 5. The building commissioner shall grant permits for the construction, alteration, removal or tearing down of build-

ings or structures and for plumbing, gas fitting, and the setting and maintenance of steam boilers and furnaces when applications therefor shall have been made and duly filed, and shall examine every building which is in the course of construction or alteration in accordance with the provisions of chapter five hundred and fifty of the acts of the year nineteen hundred and seven.

In general.
1892, 419, §§ 8, 7.
1907, 550, §§ 1, 2.

SECT. 6. There shall be a board in the building department which shall be called the board of appeal. It shall consist of five members who shall be residents of or engaged in business in Boston and who shall be appointed by the mayor subject to confirmation by the board of aldermen, for the term of five years, in the following manner: one member from two candidates, of whom one shall be nominated by The Real Estate Exchange and Auction Board and one by the Massachusetts Real Estate Exchange; one member from two candidates, of whom one shall be nominated by the Boston Society of Architects and one by the Boston Society of Civil Engineers; one member from two candidates, of whom one shall be nominated by the Master Builders' Association and one by the Contractors and Builders' Association; one member from two candidates who shall be nominated by the Building Trades Council of the Boston Central Labor Union; and one member who shall be selected by the mayor. Vacancies shall be filled for the residue of the unexpired term in the same manner in which original appointments are made. No member shall act in any case in which he is interested; and, if any member is so disqualified, the remaining members shall designate a substitute. Every decision of said board shall be in writing and shall require the assent of at least three members. Each member shall be paid ten dollars for every day of service on said board, but not more than one thousand dollars in any one year.

Board of appeal.
1892, 419, § 12.
1907, 550, § 6.
193 Mass. 364.

SECT. 7. The board of appeal shall, annually, on or before the first day of February, submit to the mayor a report giving a summary of all decisions of the board together with such recommendations for revision of the law as they deem advisable. The building commissioner shall cause said report to be printed as a separate document for public distribution.

Annual report of board.
1892, 419, § 6.
1907, 550, § 8.

CHAPTER 14.

THE CEMETERY TRUSTEES.

SECTION 1. Trustees of cemetery department, appointment, etc.

SECTION 1. There shall be a cemetery department of the city of Boston which shall be under the charge of a board of five trustees, one of whom shall, annually, before the first day of May, be appointed by the mayor, subject to confirmation by the board of aldermen, for the term of five years, beginning

Trustees of cemetery department, appointment, etc.
1890, 418, § 1.
1897, 375, § 1.

with said first day of May and until his successor is appointed and confirmed. The provisions of chapter seven of this consolidation and of all acts relating to the departments of the city of Boston, their officers and employees, shall, so far as appropriate, apply to said department, its officers and employees.

CHAPTER 15.

THE CHILDREN'S INSTITUTIONS DEPARTMENT.

SECTION

1. Trustees for children, appointment, term, etc.
2. Organization of board.

SECTION

3. Powers and duties of board.
4. Gifts of property for benefit of.

Trustees for children, appointment, term, etc.
1897, 386, §§ 1, 2, 3.

SECTION 1. There shall be a children's institutions department of the city of Boston which shall be under the charge of a board of seven trustees who shall be known as the trustees for children and two of whom at least shall be women. Said trustees shall be citizens or taxpayers of the city of Boston, and shall be appointed by the mayor, without confirmation by the board of aldermen, for the term of five years, beginning with the first day of May in the year of their respective appointments, in the following manner, viz., one in each of the years nineteen hundred and eight, nineteen hundred and ten and nineteen hundred and twelve, two in each of the years nineteen hundred and nine and nineteen hundred and eleven, and thereafter, annually, as many persons as may be necessary to fill the place of the trustee or trustees whose term or terms are about to expire. Said trustees shall serve without compensation, but all expenses reasonably incurred by them in the performance of their official duty shall be paid by the city if approved by a recorded vote of the board. No such trustee, nor any person in the employ of any of said trustees or of said department, shall be interested in a private capacity, directly or indirectly, in any contract or agreement for labor or for articles furnished for said department. Any vacancy occurring in said board shall be filled by an appointment as aforesaid for the residue of the unexpired term. The provisions of chapter seven of this consolidation and of all acts relating to the departments of the city of Boston, their officers and employees, shall, so far as appropriate, apply to said department, its officers and employees.

Organization of board.
1897, 386, § 2.

SECT. 2. Said board shall organize annually on the first Monday of May by the choice of a chairman, who shall be a member thereof, and of a secretary, who may or may not, in the discretion of the board, be a member thereof.

Powers and duties of board.
1897, 386, § 3.

SECT. 3. The trustees for children shall have and exercise all the powers, and perform all the duties relating to children or to any institution or place in which they are confined, detained or cared for, including the Suffolk school for boys, now conferred upon them by statute or ordinance, subject, however, to

such changes and alterations in such ordinances, as the city council may hereafter make, but said trustees shall have no care or control of children who have been or may hereafter be lawfully committed to, or detained in, institutions established for the care and custody of the adult insane paupers and criminals.

SECT. 4. The city of Boston may take and hold any real or personal property which may be given, granted, bequeathed or devised to and accepted by it for the benefit of said department or of the persons under its care. Such property or the income thereof shall be applied and disposed of by said trustees according to the lawful directions of the donor thereof.

Gifts of property for benefit of.
1897, 386, § 8.

CHAPTER 16.

THE ELECTION DEPARTMENT.

SECTION

1. Appointment, term, qualifications, removal, salary, etc.
2. Powers and duties of board.

SECTION

3. To constitute the Boston ballot law commission.
4. Secretary and assistants.
5. Provisions of law applicable.

Election commissioners, appointment, term, qualifications, removal, salary, etc.
1895, 449, §§ 2, 3.
1907, 560, §§ 78, 79.
183 Mass. 43.

SECTION 1. There shall be an election department of the city of Boston which shall be under the charge of a board of four election commissioners who shall be citizens and voters of the city of Boston, and one of whom shall annually be appointed by the mayor, without confirmation by the board of aldermen, for the term of four years, beginning with the first day of May in the year of his appointment. Said board shall be so appointed that two members thereof shall always be of the political party which, at the annual state election last preceding their respective appointments, cast the largest vote for governor and two shall be of the political party which then cast the next largest vote for governor. The mayor shall, annually, on or before the first day of May, designate one of said commissioners to serve as chairman for the year beginning with said day, and may, for cause, and after notice and hearing, remove any of said commissioners. The chairman of said board shall receive an annual salary of four thousand dollars, and each of the other members of said board an annual salary of three thousand five hundred dollars, or such other salary as the city council may, by ordinance, prescribe.

Powers and duties of board.
1895, 449, § 4.
1898, 548, § 9.
R. L., 11, § 8;
176, § 4.
1907, 560, §§ 8, 9.
183 Mass. 43.
190 Mass. 360 n.

SECT. 2. Said board shall have and exercise all the powers and duties conferred by law upon them relative to the selection and appointment of registration and election officers, the preparation of ballots, the posting and publishing of lists of candidates, the furnishing of places for voting, the care of the ballot boxes, seals, counting and other apparatus, the registration of voters, the determination of results of elections and primaries, and all other matters relating to caucuses or

elections which were formerly conferred by law upon the mayor, board of aldermen, city clerk or registrars of voters except the power and duty of giving notice of elections and fixing the days and hours of holding them. They shall also annually, in January or February, prepare a list of the inhabitants of said city whom they consider qualified to serve as jurors.

To constitute the Boston ballot law commission. 1895, 449, § 5. 1907, 560, § 81. 188 Mass. 43.

SECT. 3. Said board shall constitute the Boston ballot law commission, and shall, in all matters relating to objections and questions arising in the case of nominations of candidates for city offices, have all the powers and duties prescribed for the state ballot law commission in matters under their jurisdiction. In every case in which said board sits as a ballot law commission, the chief justice of the municipal court of the city of Boston, or, in case of his illness or disability, such associate justice of said court in the order of seniority, as is not ill or otherwise disabled, shall preside but shall not vote unless the other commissioners are evenly divided in their decision, in which case he shall cast the deciding vote. In all other matters in which the commissioners are evenly divided, said chief justice or associate justice shall cast the deciding vote.

Secretary and assistants. 1895, 449, § 20.

SECT. 4. Said board may, with the approval of the mayor, appoint a secretary and not more than three assistants who shall be citizens and residents of Boston, each assistant to have charge of a division of the election department. Said appointments shall be exempt from the laws relating to civil service in the commonwealth and the cities and towns thereof.

Provisions of law applicable. 1895, 449, § 2.

SECT. 5. The provisions of chapter seven of this consolidation and of all acts relating to the departments of the city of Boston, their officers and employees, shall, so far as appropriate and not inconsistent with the provisions of this chapter, apply to the election department, its officers and employees.

CHAPTER 17.

THE ENGINEERING DEPARTMENT.

SECTION 1. City engineer, powers and duties.

City engineer, powers and duties. 1870, 837, § 7. 1895, 449, § 21. 190 Mass. 215.

SECTION 1. The city engineer shall make such surveys, plans, estimates, statements, and descriptions, and take such levels as the mayor, the board of aldermen, the common council, any committee of the city council, or of either branch thereof, the board of street commissioners, or any other board or officer in charge of a department, may require in the discharge of his or its duties, and he shall have the custody of all surveys and plans relating to the laying out, relocating, altering, widening, extending, discontinuing and grading of streets.

CHAPTER 18.

THE FIRE COMMISSIONER.

SECTION

1. Fire commissioner, appointment, term, salary, etc.
2. Powers and duties of commissioner.
3. Chief engineer, powers and duties.

SECTION

4. Secretary and assistants.
5. Provisions of law applicable to department.

SECTION 1. There shall be a fire department of the city of Boston, which shall be under the charge of one fire commissioner, who shall be a citizen and a voter of said city. He shall be appointed by the mayor, without confirmation by the board of aldermen, for the term of three years beginning with the first day of May, in the year of his appointment, and until the appointment of his successor, and shall receive an annual salary of five thousand dollars or such other salary as the city council may by ordinance prescribe.

Fire commissioner, appointment, term, salary, etc.
1850, 262, § 1.
1896, 449, §§ 2, 9.

SECT. 2. The fire commissioner shall have the charge of extinguishing the fires in said city and the protection of life and property in case of fire, shall purchase and keep in repair all apparatus used therefor, including the fire alarm, telegraph and telephone system, shall divide the city into fire districts and establish a fire patrol, and shall appoint a chief engineer or engineers and other firemen. He shall also have and exercise all the powers and duties conferred upon him by statute and the ordinances of the city.

Powers and duties of commissioner.
1825, 52.
1850, 262, § 1.
1873, 374, § 2.
1896, 449, § 10.
104 Mass. 87.
120 Mass. 338.

SECT. 3. The chief engineer shall direct the work of the members of the fire department in case of fire, act as the executive officer of the fire commissioner and have authority in case of fire to prevent persons who are not thereto authorized by him from entering within the lines which he may, under such circumstances, establish in the neighborhood of the building or buildings in which the fire may have occurred.

Chief engineer, powers and duties.
1896, 449, § 11.

SECT. 4. The fire commissioner may, with the approval of the mayor, appoint a secretary and not more than three assistants, who shall be citizens and residents of Boston, each assistant to have charge of a division of the fire department. Said appointments shall be exempt from the laws relating to civil service in the commonwealth and the cities and towns thereof.

Secretary and assistants.
1896, 449, § 20.

SECT. 5. The provisions of chapter seven of this consolidation and of all acts relating to the departments of the city of Boston, their officers and employees, shall so far as appropriate and not inconsistent with the provisions of this chapter, apply to the fire department, its officers and employees.

Provisions of law applicable to department.
1896, 449, § 2.

CHAPTER 19.

THE HEALTH DEPARTMENT.

SECTION

1. Board of health.
2. Secretary and assistants.

SECTION

3. Health inspectors, appointment, duties, etc.
4. Official oath.

Board of health.
1799, c. 10.
1816, 44, § 1.
1821, 110, § 17.
1834, 448, § 40.
1881, 229, § 1.
1885, 266, § 1.
1890, 418, § 1.
12 Pick. 184.
116 Mass. 254.
139 Mass. 426.

Secretary and assistants.
1896, 449, § 20.

Health inspectors, appointment, duties, etc.
1895, 449, § 19.
1896, 250.

Official oath.
1895, 382, § 23.

SECTION 1. The board of health shall consist of three persons appointed by the mayor, subject to confirmation by the board of aldermen, for such term, not exceeding three years, beginning with the first day of May in the year of their respective appointments, as the city council may by ordinance determine, and until their successors are appointed and confirmed. All powers and duties relative to the preservation of the public health in the city of Boston and the quarantine of vessels and the enforcement of the act relative to the abatement of smoke in said city are vested in said board.

SECT. 2. The board of health may, with the approval of the mayor, appoint a secretary and not more than three assistants, who shall be citizens and residents of Boston, each assistant to have charge of a division of the health department. Said appointments shall be exempt from the laws relating to civil service in the commonwealth and the cities and towns thereof.

SECT. 3. The board of health shall appoint as employees of the health department one or more health inspectors who shall, as designated by said board, have all the powers and perform all the duties conferred or imposed by law upon inspectors of milk, inspectors of animals and inspectors of animals intended for slaughter, and perform such other duties as said board may direct. Inspectors so designated shall be the inspectors of milk, the inspectors of animals and the inspectors of animals intended for slaughter.

SECT. 4. Every member of the board of health and every health inspector shall before entering upon the performance of his official duties take and subscribe an oath before the city clerk that he will faithfully and impartially discharge such duties, and the city clerk shall make and keep a record of such oath. Every member or inspector who enters upon or discharges such duties without having taken and subscribed such oath shall be liable to a penalty of one hundred dollars; but such omission shall not render invalid any act or proceeding of said board.

CHAPTER 20.

THE HOSPITAL DEPARTMENT.

BOSTON CITY HOSPITAL.

SECTION

1. Boston City Hospital.
2. Limit of property holdings.
3. Appointment of trustees.
4. Organization of board of trustees.
5. Trustees to have care and control of hospital.

SECTION

6. Appointment of superintendent and assistants.
7. Ordinances as to city hospital.
8. Location of hospital.

HOSPITAL FOR CHRONIC DISEASES.

9. Hospital for chronic diseases.

BOSTON CITY HOSPITAL.

SECTION 1. The city hospital of the city of Boston shall be maintained for the reception of persons who, by reason of poverty or misfortune, may require relief during temporary sickness, and the board of trustees thereof shall continue to be a corporation under the name of The Boston City Hospital. Said trustees and their official successors and said corporation shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities, which are prescribed by the general laws relating to such corporations.

Boston City Hospital.
1858, 113, § 1.
1880, 174, § 1.
1893, 91.
140 Mass. 13.

SECT. 2. Said corporation may take and hold such real and personal estate, to an amount not exceeding one million dollars, as may be given, granted, bequeathed or devised to it and accepted by the trustees for the benefit of such city hospital or for any purpose connected therewith. Money received by said corporation shall be invested by the city treasurer under the direction of the finance committee of the city council, and he shall have the custody of all the securities belonging to it; but both the principal and income of such money, property and securities shall always be appropriated, according to the terms of the donation, grant, devise or bequest, under the direction of said corporation.

Limit of property holdings.
1880, 174, § 2.

SECT. 3. The board of trustees of the city hospital shall consist of five¹ citizens of Boston, one of whom shall, annually, in April, be appointed by the mayor, subject to confirmation by the board of aldermen, for the term of five years, beginning with the first day of May in the year of his appointment and until his successor is appointed and confirmed. A vacancy in said board shall be filled by an appointment of a trustee in manner aforesaid for the residue of the unexpired term. Any of said trustees may be removed by the mayor for such cause as he shall deem sufficient and shall assign in his order for removal. No member of said board shall receive any pecuniary compensation for his services.

Appointment of trustees.
1858, 113, § 2.
1880, 174, § 3.
1885, 266, § 1.
1890, 418, § 1.

SECT. 4. The members of said board shall meet for organization annually on the first Monday of May and choose one of

Organization of board of trustees.
1880, 174, § 4.

¹ By St. 1880, c. 174, two additional trustees were to be elected by the city council; but, since June 26, 1885, the city council cannot elect such officers.

their members as president. They may make rules and regulations not inconsistent with the provisions of law, relating to the city hospital, its officers and servants, and prescribe and enforce penalties for their violation; but such rules and regulations shall be subject to such limitations, restrictions and amendments as the city council may direct.

Trustees to have general care and control of hospital. 1880, 174, § 5.

SECT. 5. The trustees shall, subject to the direction of the city council by ordinance or otherwise, have the general care and control of the city hospital, and of all branches thereof which have been, or may hereafter be, established, together with the buildings and rooms containing the same and the fixtures and furniture connected therewith, and of the expenditure of money appropriated therefor.

Appointment of superintendent, assistants. 1880, 174, § 6.

SECT. 6. The board may appoint a superintendent and such assistants and subordinate officers as they may deem necessary or expedient, may fix their compensation, and may remove them; but the amount expended shall not exceed the amount appropriated by the city council and the income of any moneys which may be lawfully appropriated from funds or property held by the trustees under the provisions of section two of this chapter.

Ordinances as to city hospital. 1888, 113, § 2. 1880, 174, § 7.

SECT. 7. The city council may make such ordinances, not inconsistent with the provisions of this chapter or other provisions of law, as to the duties and authority of said board as they may, from time to time, deem expedient.

Location of hospital. 1888, 113, § 3.

SECT. 8. The Boston city hospital shall not be erected or located within three hundred feet of any school house or church which was built prior to the twenty-seventh day of March in the year eighteen hundred and fifty-eight.

HOSPITAL FOR CHRONIC DISEASES.

Hospital for chronic diseases. 1901, 518.

SECT. 9. The city of Boston may erect, establish and maintain a hospital for the reception, care and treatment of persons who may be afflicted with chronic diseases.

CHAPTER 21.

THE INSANE HOSPITAL DEPARTMENT.

THE INSANE HOSPITAL TRUSTEES.

SECTION

1. Insane hospital trustees.
2. Organization of board.
3. Gifts of property for benefit of.
4. Powers and duties of trustees.

BOSTON INSANE HOSPITAL.

5. Boston Insane Hospital.

ASYLUMS FOR CHRONIC INSANE.

SECTION

6. Asylums for chronic insane.
7. Inspection by state board.

BOSTON ASYLUM FOR INEBRIATES.

8. Boston asylum for inebriates.

THE INSANE HOSPITAL TRUSTEES.

SECTION 1. There shall be an insane hospital department of the city of Boston which shall be under the charge of a board of seven trustees who shall be known as the insane hospital trustees and two of whom at least shall be women. Said trustees shall be citizens or taxpayers of the city of Boston, and shall be appointed by the mayor, without confirmation by the board of aldermen, for the term of five years, beginning with the first day of May in the year of their respective appointments in the following manner, viz., one in each of the years nineteen hundred and eight, nineteen hundred and ten and nineteen hundred and twelve, two in each of the years nineteen hundred and nine and nineteen hundred and eleven, and thereafter annually, as many persons as may be necessary to fill the place of the trustee or trustees whose term or terms are about to expire. They shall serve without compensation, but all expenses reasonably incurred by them in the performance of their official duty shall be paid by the city if approved by a recorded vote of the board. No such trustee, nor any person in the employ of said trustees or of said department, shall be interested in a private capacity, directly or indirectly, in any contract or agreement for labor or for articles furnished for said department. Any vacancy occurring in said board shall be filled by an appointment as aforesaid for the residue of the unexpired term. The provisions of chapter seven of this consolidation and of all acts relating to the departments of the city of Boston, their officers and employees, shall, so far as appropriate, apply to said departments, its officers and employees.

Insane hospital trustees.
1897, 396, §§ 1, 2, 4.
1897, 451, §§ 2, 3.

SECT. 2. Said board shall organize annually on the first Monday of May by the choice of a chairman, who shall be a member thereof, and of a secretary, who may or may not, in the discretion of the board, be a member thereof.

Organization of board.
1897, 396, § 2.

SECT. 3. The city of Boston may take and hold any real or personal property which may be given, granted, bequeathed or devised to and accepted by it for the benefit of said department or of the persons under its care. Such property, or the income thereof, shall be used, applied and disposed of by said trustees according to the lawful directions of the donor thereof.

Gifts of property for benefit of.
1897, 396, § 8.

Powers and
duties of trus-
tees.
1857, 35, § 1.
1889, 245, § 2.
1897, 395, § 4.
1897, 451, § 3.

SECT. 4. Said trustees shall have the general care and control of the Boston insane hospital and of all other hospitals which the city has established or may hereafter establish for the care or treatment of the insane. They shall also have and exercise such powers and perform such duties in connection with said insane hospitals and the management of the business thereof as are conferred or imposed upon them by statute and the ordinances of the city.

BOSTON INSANE HOSPITAL.

Boston Insane
Hospital.
1839, 131, § 1.
1851, 245, § 1.
1857, 35, § 3.

SECT. 5. The city council may maintain a hospital for the reception of insane persons, and provision shall be made for the comfortable support of all persons confined therein.

ASYLUMS FOR CHRONIC INSANE.

Asylums for
chronic insane.
1884, 234, §§ 1, 2.
1900, 451, §§ 1, 2.
R. L. 87, § 109.

SECT. 6. The city of Boston may establish and maintain one or more asylums for the treatment of the chronic insane of such city or of any other city or town and the city council may enact suitable ordinances relative to the maintenance and management thereof. The provisions of section fifty-two of chapter eighty-seven of the Revised Laws shall apply to such asylums, and they may receive insane persons who may be committed according to the provisions of section thirty-three of said chapter; but no person whose insanity has existed for less than six months shall be committed to or detained therein except as provided in said section fifty-two. Every such asylum shall be under the care of proper medical officers having experience in the care of the insane.

Inspection by
state board.
1884, 234, § 3.
R. L. 87, § 110.

SECT. 7. The state board of insanity or its agent shall visit and inspect every such asylum at least once in every six months, and may remove or transfer the inmates thereof in the same manner as it removes or transfers inmates of other hospitals or asylums, and may transfer and admit to said asylums patients supported by cities and towns in the state hospitals or elsewhere. The managers of any such asylum may discharge any inmate thereof when they consider it expedient.

BOSTON ASYLUM FOR INEBRIATES.

Boston
Asylum for
Inebriates.
1884, 225.
1897, 395, § 4.
1897, 451, § 3.

SECT. 8. The city of Boston may establish and maintain at Deer Island or elsewhere within the limits of the city an asylum to be called the Boston Asylum for Inebriates which shall be under the charge of the insane hospital trustees and to which persons requiring the benefits of such an institution may be admitted as boarders, upon such terms and conditions as said trustees may determine subject to the approval of the city council.

CHAPTER 22.

THE INSTITUTIONS REGISTRATION DEPARTMENT.

SECTION

1. Institutions registrar, appointment, etc.

SECTION

2. Duties of institutions registrar.
3. Gifts of property for benefit of.

SECTION 1. There shall be an institutions registration department of the city of Boston which shall be under the charge of the institutions registrar. He shall be a citizen or taxpayer of the city of Boston and shall be appointed by the mayor, without confirmation by the board of aldermen, for the term of one year, and until his successor is appointed. Neither said registrar nor any person in the employ of such department shall be interested in a private capacity, directly or indirectly, in any contract or agreement for labor, or for articles furnished for said department. The provisions of chapter seven of this consolidation and of all acts relating to the departments of the city of Boston, their officers and employees, shall, so far as appropriate, apply to said department, its officers and employees.

Institutions registrar, appointment, etc.
1890, 418, § 1.
1897, 385, §§ 1, 2, 6.

SECT. 2. The institutions registrar shall investigate all questions relative to the settlement of paupers, to the commitment of the insane or to the agency for aiding discharged prisoners, or to any rights, duties or liabilities connected therewith, and report thereon to the department interested therein; and shall perform such service relating to the accounts and to the collection, registration and tabulation of statistics relating to said departments, or any of them, as may be required of him by the mayor, or, with the approval of the mayor, by the officers or trustees in charge of any of said departments. Said registrar shall receive an annual salary of three thousand dollars, or such other salary as may be fixed by ordinance.

Duties of institutions registrar.
1897, 385, § 6.

SECT. 3. The city of Boston may take and hold any real or personal property which may be given, granted, bequeathed or devised to and accepted by it for the benefit of said department or of the persons under its care. Such property or the income thereof shall be used, applied and disposed of by the institutions registrar according to the lawful directions of the donor thereof.

Gifts of property for department.
1897, 385, § 8.

CHAPTER 23.

THE LIBRARY DEPARTMENT.

SECTION

1. Maintenance of public library authorized.
2. Trustees of the public library to continue a corporation.
3. Limit of property holdings.
4. Appointment of trustees.
5. Organization of board.
6. Trustees to have care and control of library.

SECTION

7. Management of Harris collection and fund.
8. Appointment of librarian and assistants.
9. Ordinances as to duties of board.
10. Semi-annual report of board.
11. Grant of land for public library building.
12. Forfeiture of grant by violation of stipulations.

Maintenance of a public library authorized. 1848, 62. 1858, 88, § 1.

SECTION 1. The city of Boston may maintain a public library, and the city council may make such expenditures, establish such regulations and prescribe such penalties for the breach thereof, and do all such acts and things as may be deemed necessary and proper to that end.

Trustees of public library to continue a corporation. 1878, 114, § 1.

SECT. 2. The trustees of the public library of the city of Boston shall continue to be a corporation by the name of the Trustees of the Public Library of the City of Boston, and they and their successors in office shall continue a body corporate for the purposes hereinafter set forth, with all the powers and privileges, and subject to all the duties, restrictions and liabilities, which are prescribed in the general laws relating to such corporations.

Limit of property holdings. 1878, 114, § 2.

SECT. 3. Said corporation may take and hold such real and personal estate, to an amount not exceeding one million dollars, as may be given, granted, bequeathed or devised to it and accepted by the trustees for the benefit of such public library, or of any branch library or for any purpose connected therewith. Money received by said corporation shall be invested by the city treasurer, under the direction of the finance committee of the city council, and he shall have the custody of all the securities belonging to it; but both the principal and income of such money, property and securities shall always be appropriated according to the terms of the donation, grant, devise or bequest under the direction of said corporation.

Appointment of trustees. 1878, 114, § 3. 1885, 264, § 1. 1890, 418, § 1.

SECT. 4. The board of trustees of the public library shall consist of five¹ citizens of Boston, one of whom shall, annually, in April, be appointed by the mayor, subject to confirmation by the board of aldermen, for the term of five years beginning with the first day of May in the year of his appointment, and until his successor is appointed and confirmed. A vacancy in said board shall be filled by an appointment of a trustee in manner aforesaid for the residue of the unexpired term. Any of said trustees may be removed by the mayor for such cause as he shall deem sufficient and shall assign in his order for removal.

¹ By St. 1878, c. 114, two additional trustees were to be elected by the city council; but since June 26, 1885, the city council cannot elect such officers.

No member of said board shall receive any pecuniary compensation for his services.

SECT. 5. The members of said board shall meet for organization annually on the first Monday of May and choose one of their members as president. They may make rules and regulations, not inconsistent with the provisions of law, relating to said public library and its branches, and its officers and servants, and prescribe and enforce penalties for their violation; but such rules and regulations shall be subject to such limitations, restrictions and amendments as the city council may direct.

Organization
of board.
1878, 114, § 4.

SECT. 6. Said trustees shall have the general care and control of the central public library and of the central public library building in said city and of all branches thereof which have been or may hereafter be established and of the fixtures connected therewith and shall also have control of the expenditures of money appropriated therefor.

Trustees to
have care and
control of
library.
1878, 114, § 5.
1880, 222, § 1.
1887, 60, §§ 1, 2.

SECT. 7. Said trustees may remove from the Charlestown branch of the Boston public library to the central library the books, papers, pamphlets and other matter known as the "Harris Collection." They may also spend the interest of the Harris fund, under the conditions of the bequest, for books for said collection after its removal, but they shall spend, in five annual instalments, a sum equal to the accumulated interest on said fund on the twenty-fifth day of May in the year nineteen hundred for new books to replace those of the Harris collection which may be removed in accordance with the provisions of this section, and they shall also annually spend a sum equal to the annual interest of the Harris bequest for new books for the Charlestown branch. If they fail to comply with the foregoing provisions, said collection shall be returned to the Charlestown branch. Any agreement in the articles of annexation of the city of Charlestown to the city of Boston which is in conflict with the foregoing provisions is hereby annulled. The provisions of this section shall in no way affect the will of the late Charlotte Harris of Charlestown.

Management
of Harris
collection and
fund.
1900, 268.

SECT. 8. Said board may appoint a superintendent or librarian and such assistants and subordinate officers as they may deem necessary or expedient, may fix their compensation, and may remove them; but the amount expended shall not exceed the amount appropriated by the city council and the income of any moneys which may be lawfully appropriated from funds or property held by the trustees under the provisions of section three of this chapter.

Appointment
of librarian
and assistants.
1878, 114, § 6.

SECT. 9. The city council may make such ordinances, not inconsistent with the provisions of this chapter or other provisions of law, as to the duties and authority of said board as they may, from time to time, deem expedient.

Ordinances as
to duties of
board.
1878, 114, § 7.

SECT. 10. Said board shall, semi-annually, and whenever required by the mayor or city council, make and present in writing a particular report and a statement of all their acts and proceedings.

Semi-annual
report of
board.
1887, 60, § 8.

Grant of land
to city for
public library
building.
1880, 222, § 1.

SECT. 11. The city of Boston, under the grant contained in chapter two hundred and twenty-two of the acts of the year eighteen hundred and eighty shall have the perpetual right to hold, occupy and control, free of rent or charge by the commonwealth, for the use of the central public library building of said city, the parcel of land on the southerly corner of Boylston and Dartmouth streets as granted, bounded and described in said act, together with the right, title and interest of the commonwealth in that part of a private passageway which adjoins such parcel, and with such rights as the commonwealth may possess to close the same. Such grant is made, however, subject to the following stipulations, viz., that the city of Boston shall appropriately lay out and cultivate such of the ground around the library building as may not be occupied by the building itself and shall keep such grounds and building in a neat and ornamental condition; and that, upon the opening of said library, all the citizens of the commonwealth shall have the perpetual right of access thereto free of charge, under such reasonable regulations as the trustees may from time to time establish.

Forfeiture of
grant by
violation of
stipulations.
1880, 222, § 2.

SECT. 12. If said city shall use said land, or any portion thereof, for any purpose foreign to the uses for which it was granted, the commonwealth may take such action in the courts of the commonwealth as may be necessary to secure an adjudication that said land may be declared forfeited by the city of Boston and the title thereto reverted in the commonwealth.

CHAPTER 24.

THE PARK COMMISSIONERS.

SECTION

1. Appointment of board of park commissioners.

SECTION

2. Powers and duties of board.
3. Annual report of board.

Appointment
of board of
park com-
missioners.
1875, 185, §§ 1, 2.
1885, 266, § 1.
1890, 418, § 1.
131 Mass. 225.
133 Mass. 321.

SECTION 1. There shall be a board of park commissioners of the city of Boston consisting of three persons, not members of the city council, one of whom shall annually be appointed by the mayor, subject to confirmation by the board of aldermen, for the term of three years beginning with the first day of May in the year of his appointment, and until his successor is appointed and confirmed. A vacancy in said board shall be filled by an appointment of a commissioner in manner aforesaid for the residue of the unexpired term. Any of said commissioners may be removed by the mayor for such cause as he shall deem sufficient and shall assign in his order for removal. The members of said board shall receive such compensation as the city council may determine.

Powers and
duties of
board.

SECT. 2. Said board may locate, within the limits of the city of Boston, one or more public parks; and for that purpose

may, from time to time, take in fee, by purchase or otherwise, any land which said board may deem desirable therefor, or take bonds for the conveyance thereof to said city. Said board may make rules for the use and government thereof, and they may prescribe penalties of not more than twenty dollars for one offence for violations thereof. Said board may also appoint all necessary engineers, surveyors, clerks and other officers, to act in such parks, define the powers and duties of such officers, fix their compensation, and generally do all needful acts for the proper execution of the powers and duties granted to, or imposed upon, said city or said board by law. But no land shall be taken, or any other thing done, which involves an expenditure of money, until an appropriation, sufficient to cover the estimated expense thereof, shall have been made by a vote of two-thirds of each branch of the city council.

1875, 186, § 3.
131 Mass. 225.
138 Mass. 321.
143 Mass. 546.
156 Mass. 57.
176 Mass. 75.
187 Mass. 221.

SECT. 3. Said board shall, annually, in January, render to the city council a full report of its doings for the preceding year, including a detailed statement of all their receipts and expenditures.

Annual report
of board.
1875, 186, § 15.

CHAPTER 25.

THE PAUPER INSTITUTIONS TRUSTEES.

SECTION

1. Pauper institutions trustees.
2. Organization of board.
3. Gifts of property for benefit of.

SECTION

4. Powers and duties of board.
5. Government of inmates of almshouses.

SECTION 1. There shall be a pauper institutions department which shall be under the charge of a board of seven trustees who shall be known as the pauper institutions trustees and two of whom at least shall be women. Said trustees shall be citizens or taxpayers of the city of Boston and shall be appointed by the mayor, without confirmation by the board of aldermen, for the term of five years, beginning with the first day of May in the year of their respective appointments in the following manner, viz., one in each of the years nineteen hundred and eight, nineteen hundred and ten and nineteen hundred and twelve, two in each of the years nineteen hundred and nine and nineteen hundred and eleven, and thereafter, annually, as many persons as may be necessary to fill the place of the trustee or trustees whose term or terms are about to expire. Said trustees shall serve without compensation, but all expenses reasonably incurred by them in the performance of their official duty shall be paid by the city if approved by a recorded vote of the board. No such trustee, nor any person in the employ of any of said trustees or of said department shall be interested in a private capacity, directly or indirectly, in any contract or agreement for labor or for articles furnished for said department. Any vacancy occurring in said board shall be filled by an appointment

Pauper
institutions
trustees.
1897, 386, §§ 1,
2, 4.

as aforesaid for the residue of the unexpired term. The provisions of chapter seven of this consolidation and of all acts relating to the departments of the city of Boston, their officers and employees, shall, so far as appropriate, apply to said department, its officers and employees.

Organization of board.
1897, 395, § 2.

SECT. 2. Said board shall organize, annually, on the first Monday of May by the choice of a chairman, who shall be a member thereof, and of a secretary, who may or may not, in the discretion of the board, be a member thereof.

Gifts of property for benefit of.
1897, 393, § 8.

SECT. 3. The city of Boston may take and hold any real or personal property which may be given, granted, bequeathed or devised to and accepted by it for the benefit of said department or of the persons under its care. Such property or the income thereof shall be used, applied and disposed of by said trustees, according to the lawful directions of the donor thereof.

Powers and duties of board.
1897, 395, § 4.

SECT. 4. Said board shall have the charge and control of poor and indigent persons and of any institution or place belonging to the city of Boston in which they are confined, detained or cared for, and shall have and exercise all the powers, and perform all the duties, which are incident thereto or which are conferred upon or required of said board by statute and the ordinances of the city.

Government of inmates of almshouses.
1896, 449, §§ 17, 18.

SECT. 5. The superintendent in charge of any almshouse of the city may, from time to time, subject to the approval of the pauper institutions trustees, make, amend and repeal reasonable rules and regulations for the government of the inmates of such almshouse. He may also, in his discretion, punish any inmate thereof for a violation of such rules and regulations by restricting his diet or by restricting his liberty by detention for not more than three days.

CHAPTER 26.

THE PENAL INSTITUTIONS COMMISSIONER.

SECTION

1. Penal institutions commissioner.
2. Appointment of assistant and secretary.
3. Removals of veterans regulated.

SECTION

4. Powers and duties of penal institutions commissioner.
5. Gifts of property for institutions.

Penal institutions commissioner.
1895, 449, §§ 2, 14.
1897, 395, § 5.

SECTION 1. There shall be a penal institutions department of the city of Boston which shall be under the charge of the penal institutions commissioner. He shall be a citizen and voter of said city and shall be appointed by the mayor, without confirmation by the board of aldermen, for the term of three years beginning with the first day of May in the year of his appointment and shall receive an annual salary of five thousand dollars or such other salary as the city council may by ordinance prescribe. The provisions of chapter seven of this

consolidation and of all acts relating to the departments of the city of Boston, their officers and employees, shall, so far as appropriate, apply to said department, its officers and employees.

SECT. 2. The penal institutions commissioner may, with the approval of the mayor, appoint one assistant, who shall be a citizen and resident of Boston and shall have charge of a division of the penal institutions department, and also a secretary. Such appointments shall be exempt from the laws relating to civil service in the commonwealth and the cities and towns thereof.

Appointment of assistant and secretary.
1895, 449, § 20.
1897, 395, § 5.

SECT. 3. No veteran holding an office in the penal institutions department shall be removed or suspended, or shall, without his consent, be transferred from such office or employment except after a full hearing before the mayor; and, at such hearing, the veteran shall have the right to be present and to be represented by counsel. Such removal, suspension or transfer shall be made only upon the written order of the mayor.

Removal of veterans regulated.
1897, 395, § 10.

SECT. 4. The penal institutions commissioner shall have the charge and control of all that portion of Deer Island in the harbor of Boston owned by said city and of the house of correction thereon, and shall have all the powers and duties conferred or imposed upon him by statute and the ordinances of the city.

Powers and duties of penal institutions commissioner.
1-57, 35.
1899, 245.
1895, 449, § 15.
1897, 395, § 5.
151 Mass. 505.

SECT. 5. The city of Boston may take and hold any real or personal property which may be given, granted, bequeathed or devised to and accepted by it for the benefit of the penal institutions department or of the persons under the care thereof. Such property or the income thereof shall be used, applied and disposed of by the penal institutions commissioner, according to the lawful directions of the donor thereof.

Gifts of property for institutions.
1897, 395, § 5.

CHAPTER 27.

THE POOR DEPARTMENT.

APPOINTMENT, ETC., OF OVERSEERS OF THE POOR.

SECTION

1. Appointment of overseers of the poor.
2. Meeting for organization.
3. Private interest in contracts forbidden.
4. Accounts and reports of board.

INCORPORATION OF OVERSEERS OF THE POOR.

5. Incorporation of overseers of the poor.

SECTION

6. Limit of property holdings.
7. Binding out poor persons.

TRUSTEES OF THE CHARLESTOWN POOR'S FUND.

8. Trustees of the Charlestown poor's fund.
9. Powers of said trustees.
10. Management of poor's fund.
11. Sale of property of fund.

APPOINTMENT, ETC., OF OVERSEERS OF THE POOR.

SECTION 1. The overseers of the poor in the city of Boston shall consist of twelve persons, residents of the city, four of whom shall, annually, be appointed by the mayor, subject to confirmation by the board of aldermen, for the term of three years beginning with the first day of May in the year of their

Overseers of the poor, appointment, etc.
1821, 110, § 19.
1854, 448, § 52.
1864, 128, § 2.
1885, 266, § 1.
1890, 418, 1.

respective appointments and until their successors are appointed and confirmed. A vacancy in said overseers shall be filled by an appointment, in manner aforesaid, for the residue of the unexpired term, and any of said overseers may be removed by the mayor for such cause as he shall deem sufficient and shall assign in his order for removal.

Meeting for
organization.
1772, 3, § 5.
1802, 44, § 4.
1864, 128, § 3.
1880, 418, § 3.
1882, 131.

SECT. 2. Said overseers shall meet and organize, annually, on the first Monday of May. They shall choose one of their members as chairman, and they shall also choose a treasurer, secretary and such subordinate officers as they may deem expedient, define their duties and fix their respective salaries. They may remove any of such subordinate officers for such cause as they shall deem sufficient and shall assign in their order for removal.

Private inter-
est in contracts
forbidden.
1864, 128, § 6.

SECT. 3. No one of said overseers, nor any person in their employ, shall be interested in a private capacity, directly or indirectly, in any contract or agreement for labor, or for articles furnished by direction of said overseers, unless the same be expressly authorized by a recorded vote of the board.

Accounts and
reports of
board.
1864, 128, § 4.

SECT. 4. The overseers shall render such accounts and reports of their expenditures, acts and doings as the city council may require, and they shall be audited and allowed, if according to law, in such manner as the city council shall, from time to time, determine.

INCORPORATION OF OVERSEERS OF THE POOR.

Incorporation
of the over-
seers of the
poor.
1771-72, 20, §§ 1,
2.
1802, 44, §§ 1, 3.
1821, 110, § 19.
1864, 448, § 52.
1881, 128, § 1.
28 Pick. 122,
180, 133.
122 Mass. 344,
356.

SECT. 5. Said overseers are and shall continue to be a corporation under the name of "The Overseers of the Poor in the City of Boston"; and, as such, shall have perpetual succession and shall continue to hold and possess all the property, and be entitled to all the rights and privileges, and be subject to all the duties, liabilities and obligations, which, prior to the second day of May in the year eighteen hundred and sixty-four, belonged or appertained to the "Overseers of the Poor of the Town of Boston in the Province of the Massachusetts Bay in New England," a corporation established by chapter three of the acts of the year seventeen hundred and seventy-two, and to the "Trustees of John Boylston's Charitable Donations for the Benefit and Support of Aged Poor Persons and of Orphans and Deserted Children," a corporation established by chapter forty-four of the acts of the year eighteen hundred and two, including the faithful administration and execution of all the trusts, bequests, legacies, endowments and charities confided to them, which have been heretofore, or shall hereafter be, accepted by them.

Limit of prop-
erty holdings.
1771-72, 20, §§ 3,
4.
1802, 44, § 3.
1868, 183.
1875, 73.
Binding out
poor persons.
1813, 171.

SECT. 6. Said overseers are authorized to hold real and personal estate, including such as they have heretofore been by law authorized to hold, to an amount not exceeding in all one million dollars. 1888, 324.

SECT. 7. Said overseers may bind out in virtuous families, or to reputable trades, or to useful arts or occupations, such poor

persons, orphans or deserted children as receive, or may hereafter receive, the benefits of the said John Boylston's charitable donations until they reach the age of twenty-one years, in such manner as said overseers may deem expedient; and, for such purpose, they may establish any rules and regulations and enter into any indenture or covenant relative to such objects, and not inconsistent with law as they deem necessary or expedient.

TRUSTEES OF THE CHARLESTOWN POOR'S FUND.

SECT. 8. The members of the two branches of the city council of the city of Boston, for the time being, who reside within the limits of the Charlestown district of said city, together with the two senior deacons, or the wardens, as the case may be, of the religious societies within the limits of said Charlestown district, are and shall continue forever to be a corporation by the name of the Trustees of the Charlestown Poor's Fund for the purpose of managing certain donations given and bequeathed at different times by certain former inhabitants of said Charlestown and others for the relief of the poor of said district and such other funds as may come into their hands for like purposes.

Trustees of the Charlestown poor's fund.
1825, 40, § 1.
1873, 236, § 12.
114 Mass. 214, 228.

SECT. 9. Said trustees may, by the name aforesaid, sue and be sued, prosecute and defend suits, with power of substitution, have a common seal which they may alter at pleasure, may choose a treasurer and other necessary officers, adopt by-laws not inconsistent with law, and alter them as they deem expedient or necessary.

Powers of said trustees.
1825, 40, §§ 1, 2.

SECT. 10. Said trustees may receive and hold all money, securities, and other estate, real or personal, now constituting the said poor's fund and also receive and hold all gifts, grants and donations, real and personal, which may hereafter be made to said fund, manage and invest the same, and apply the income thereof annually for the relief of the poor of said Charlestown forever conformably to the true intent and meaning of the several donors.

Management of poor's fund.
1825, 40, § 3.
1868, 301.

SECT. 11. Said trustees may sell any of their property, real or personal, whether purchased or given, as they shall judge most for the interest of said trust, unless a gift or donation be expressly otherwise appropriated by the donor. The proceeds of such sale and the subsequent income shall be applied to the same use to which the property sold and the income thereof were respectively applicable; and all deeds, conveyances, contracts and other instruments duly authorized by the board at a regular meeting, signed by the president and attested by the secretary, shall be good and valid.

Sale of property of fund.
1825, 40, § 4.

CHAPTER 28.

THE REGISTRY DEPARTMENT.

SECTION

1. Appointment of city registrar.
2. Assistant city registrars.
3. Custody of certain records.

SECTION

4. City registrar to have an official seal.
5. Department books in charge of the registrar.

Appointment
of city
registrar.
1890, 41E, § 1.
1892, 314, § 1.
R. L. 20, § 23.

SECTION 1. The registry department shall be under the charge of a city registrar who shall be appointed by the mayor, subject to confirmation by the board of aldermen, for such term, not exceeding three years, beginning with the first day of May, in the year of his appointment, as the city council may, by ordinance, determine, and until his successor is appointed and confirmed. The registrar shall have all the powers and perform all the duties conferred or imposed by law upon registrars of cities who are provided for in section twenty-three of chapter twenty-nine of the Revised Laws, and the city council may, by ordinance, assign to him any other duties. The provisions of chapter seven of this consolidation, and of all acts relating to departments of the city of Boston and the officers in charge thereof, shall, so far as appropriate, apply to the registrar and the registry department.

Assistant city
registrars.
1892, 314, § 2.
183 Mass. 453,
456.

SECT. 2. The city registrar shall, from his subordinates, appoint two assistant city registrars who may, in the absence of the city registrar, perform his duties. The certificate or attestation of either assistant registrar shall have the same force and effect as that of the registrar. The registrar may pay out of any funds received by him the fees due to persons who make the returns required by law, and shall, on or before the twentieth day of each month, transmit to the city auditor the accounts and vouchers for all funds so received, and for all fees so paid, by him.

Custody of cer-
tain records.
1892, 314, § 3.

SECT. 3. The duties imposed upon the clerks of cities and towns by the provisions of sections twelve and thirteen of chapter thirty-five of the Revised Laws shall, in Boston, be performed by the city registrar.

City registrar
to have an
official seal.
1898, 389, §§ 1, 3.

SECT. 4. The city shall provide for the use of the registrar an official seal with which all certificates from records in his custody and all copies of records of births, marriages or deaths in his charge shall be attested.

Department
books in
charge of the
registrar.
1892, 314, § 4.

SECT. 5. The city council may, from time to time, by ordinance, direct the city clerk or the head of any department to place in charge of the city registrar any of the books or papers of such department bearing date earlier than the year eighteen hundred and seventy-five, and may in like manner direct their return.

CHAPTER 29.

THE SOLDIERS' RELIEF DEPARTMENT.

SECTION

1. Soldiers' relief commissioner.

SECTION 1. The soldiers' relief department shall be under the charge of the soldiers' relief commissioner who shall be a registered voter of the city of Boston and shall be appointed by the mayor, subject to confirmation by the board of aldermen, for such term, not exceeding three years, beginning with the first day of May in the year of his appointment, as the city council may by ordinance determine, and until his successor is appointed and confirmed. He shall receive an annual salary of thirty-five hundred dollars or such other salary as the city council may by ordinance prescribe. The provisions of chapter seven of this consolidation and of all acts relating to the departments of the city of Boston or the officers or employees thereof shall, so far as appropriate and not inconsistent herewith, apply to said department, its officers and employees.

Soldiers' relief commissioner.
1897, 441, §§ 1, 2.

SECT. 2. Said commissioner shall, subject to the direction of the board of aldermen as to the amounts to be paid to beneficiaries, have and exercise all the powers and perform all the duties conferred upon or required of him by section eighteen of chapter seventy-nine of the Revised Laws, chapter two hundred and fifty of the acts of the year nineteen hundred and two, and by chapter three hundred and eighty-one of the acts of the year nineteen hundred and four, as well as by acts in amendment thereof or in addition thereto.

Duties of soldiers' relief commissioner.
1897, 441, § 2.

CHAPTER 30.

STREETS.

STREET LAYING OUT DEPARTMENT.

SECTION

1. Board of street commissioners, election and qualification.
2. Vacancy in said board, how filled.
3. Salaries of commissioners.
4. Clerk of board, appointment, salary, oath.
5. Duties of board in general.

SECTION

6. Taking of land for public uses.
7. Proceedings upon taking of land.
8. Damages.

STREET DEPARTMENT.

9. Construction of streets.
10. Superintendent to have care of ferries.

STREET LAYING OUT DEPARTMENT.

SECTION 1. The board of street commissioners shall consist of three inhabitants of the city of Boston, one of whom shall, annually, at the annual city election, be chosen by the male

Board of street commissioners, election, qualification, etc.
1870, 387, § 1.

voters for the term of three years from the first Monday of January in the year following his election.

Vacancy in
said board,
how filled.
1870, 337, § 6.
1885, 286, § 1.

SECT. 2. If a vacancy occurs in said board, it shall be filled by an appointment by the mayor, subject to confirmation by the board of aldermen. The person so appointed shall hold the office until the expiration of the municipal year then current, and until his successor shall be chosen and qualified; and if, when such vacancy occurs, the residue of the unexpired term of the commissioner vacating his office is more than one year, there shall be chosen, at the next annual election, in manner aforesaid, a commissioner for the residue only of said unexpired term.

Salaries of
commission-
ers.
1870, 337, § 4.
1879, 198.

SECT. 3. Said commissioners shall each receive from the city treasury an annual salary of not less than two thousand dollars, which shall be fixed by the city council and which shall be in full for their services.

Clerk of board,
appointment,
salary, oath.
1870, 337, § 5.
1890, 418, § 3.

SECT. 4. Said board shall appoint a clerk who shall have charge of its records, and who shall perform such clerical and other duties as it may require. He shall be sworn to the faithful performance of his official duties, shall receive such salary from the city treasury as the city council may determine, and shall be removable at the pleasure of the board for such cause as it shall deem sufficient and shall assign in the order for removal.

Duties of
board in
general.
1870, 337, §§ 2, 3.
1889, 366, § 3.
R. L. 12, § 77.
R. L. 20, § 34.
1906, 333, § 2.
102 Mass. 19.
120 Mass. 419.
158 Mass. 284.

SECT. 5. Said board shall lay out, relocate, alter, widen, discontinue or change the grade of highways and public alleys in said city, and order the construction thereof, order specific repairs on highways, lay out sewers, and, with the approval of the mayor, award the damages and estimate the benefits occasioned by such laying out, relocation, alteration, widening, discontinuance or change of grade. Said board, upon the request of the schoolhouse commissioners, shall take land for school purposes, and may, upon appeals from the assessors, make abatements of taxes and of street watering assessments.

Taking of land
for public uses.
1885, 408, § 2.
1887, 299, §§ 1, 4.
1889, 379, §§ 1, 4.
1900, 437.
R. L. 25, § 47.

SECT. 6. The board of street commissioners, with the approval of the mayor, may vote to take in fee any land within the limits of the city not appropriated to public uses for the purpose of erecting thereon a building to be used for a public school, a library or an engine house, or for the enlargement of a lot of land taken or used for such purpose, but no land shall be so taken if the lot will thereby exceed two acres in area. Such vote shall contain a description sufficient for identification of the land to be taken.

Proceedings
upon taking of
land.
1885, 408, § 2.
1887, 299, § 2.
1889, 379, § 2.
R. L. 25, § 48.

SECT. 7. The mayor of the city, within sixty days after the passage of such vote, shall sign and cause to be recorded in the registry of deeds for the county of Suffolk a statement that the city takes the land, giving the description aforesaid and the purpose for which the land is taken; and, upon such recording, the land so described shall be taken in fee by the city.

Damages.
1885, 408, § 3.
1887, 299, §§ 3, 4.

SECT. 8. The board of street commissioners, with the approval of the mayor, may, subject to the provisions of chapter

three hundred and forty of the acts of the year eighteen hundred and ninety-eight agree with a person sustaining damage to his property by such taking, and the city shall pay the same; but, if they are unable to agree, the damages shall on petition of either party, filed in the superior court within two years after the date of the recording of the statement, be determined by a jury in the manner provided for determining damages sustained by the taking of land in laying out highways.

1809, § 79, §§ 3, 4.
R. L. 25, § 49.

STREET DEPARTMENT.

SECT. 9. The superintendent of streets, or such other officer as may be thereto authorized by the mayor, shall construct streets and such other public improvements as may be ordered by the street commissioners under the provisions of chapter three hundred and ninety-three of the acts of the year nineteen hundred and six.

Construction
of streets.
1906, 393, § 3.

SECT. 10. The superintendent of streets shall have the care and management of the ferries owned by the city, shall purchase or build all ferry-boats used for said ferries, make the necessary alterations and repairs thereon and upon the slips, drops, tanks and buildings used for ferry purposes. He shall have and exercise all the powers and perform all the duties now conferred or imposed upon him by the ordinances of the city relative to such care and management of the ferries subject to such changes and alterations in such ordinances, not inconsistent with law, as the city council may, hereafter, from time to time, make by ordinance.

Superintendent to have
care of ferries
1895, 449, § 23.

CHAPTER 31.

THE WATER DEPARTMENT.

SECTION

1. Water department and water commissioner.
2. Assistants and secretary.
3. Duties of water commissioner.

SECTION

4. Disposition of annual income from water works.
5. Certain sums to be paid to commissioners of sinking funds.

SECTION 1. There shall be a water department of the city of Boston, which shall be under the charge of one water commissioner, who shall be a citizen and voter of Boston. He shall be appointed by the mayor, without confirmation by the board of aldermen, for the term of three years, beginning with the first day of May in the year of his appointment, and shall receive an annual salary of five thousand dollars, or such other salary as the city council may by ordinance prescribe. The provisions of chapter seven of this consolidation and of all acts relating to departments of the city of Boston, their officers and employees, shall, so far as appropriate, apply to the water department, its officers and employees.

Water department and
water commissioner.
1874, 179.
1875, 80, § 1.
1895, 449, §§ 2,
12.

SECT. 2. The water commissioner may, with the approval of the mayor, appoint not more than three assistants, who shall

Assistants and
secretary.
1895, 449, § 20.

be citizens and residents of Boston, and each of whom shall have charge of a division of the water department, and a secretary; and such appointments shall be exempt from the laws relating to civil service in the commonwealth and the cities and towns thereof.

Duties of
water commis-
sioner.
1875, 80, §§ 1, 2.
1881, 205.
1892, 213, § 1.
1895, 206, § 1.
1896, 449, § 13.
190 Mass. 332.

SECT. 3. The water commissioner, acting for said city, shall have power to protect the purity and prevent the pollution of the waters supplied to said city; to construct and maintain dams, reservoirs and storage basins for said waters; to collect and store said waters; to convey said waters into the places which said city is authorized to supply with water; to distribute and use said waters therein; to sell said waters or parts thereof and to fix the rates to be paid therefor by the owner of the premises to which any of said water is furnished, or by the person or persons using any of said water; to furnish and attach meters where he deems it necessary in accordance with the provisions of chapter five hundred and twenty-four of the acts of the year nineteen hundred and seven; to construct and maintain buildings, machinery, roads, drains, pipes, conduits and aqueducts, and lay and maintain pipes for the purposes of the water supply of said city; and to take, by purchase or otherwise, such lands in fee, rights in lands, waters and water rights as said commissioner may deem necessary for the purposes of said water supply. He shall have and exercise all the powers and perform all the duties conferred or imposed upon him by the ordinances of said city, subject to such changes and alterations therein, not inconsistent with the provisions of this consolidation, as the city council may hereafter make.

Disposition of
annual income
from water
works.
1898, 427, § 1.

SECT. 4. The income received each year by the city of Boston from its water works shall be applied, prior to the first day of February of the following year, to meet the expenses incurred for maintenance of its water works, including the operation, extension, improvement and renewal of said works, to meet the interest and sinking fund requirements of the loans issued for said works, and to meet the assessment apportioned to said city under chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five; and the balance of said income remaining at said date and not otherwise provided for shall be paid into the sinking funds for said loans until such time as in the opinion of the commissioners of sinking funds of said city such funds with their probable accumulations are sufficient to meet said loans at maturity without further contributions from any other source, and thereafter shall be added to the capital of the fund provided for in the following section:

Certain sums
to be paid to
commissioner
of sinking
funds, etc.
1898, 427, § 2.

SECT. 5. All sums received after the first day of February, in the year eighteen hundred and ninety-eight, by said city for the taking of any part of its water works under the provisions of said chapter, shall be paid to said commissioners of sinking funds; and such sums, together with any payments that may be made of the income from the city's water works, as provided

in section the preceding shall, until otherwise authorized by the legislature, be invested, so far as practicable, in securities issued from time to time by said city, and the balance in other securities, and be held and managed by said sinking funds commissioners as a separate fund; and the interest received from said fund shall, so far as required, be paid to the treasurer of said city and used to meet the balance, if any, required for the purposes to which the income from the water works of said city may be applied under section the preceding; and if in any year the total income from said fund shall exceed the amount required to be so used the excess shall be added to the capital of said fund.

CHAPTER 32.

THE WIRE DEPARTMENT.

SECTION

1. Wire commissioner, appointment and salary.

SECTION

2. Duties of commissioner of wires.

SECTION 1. There shall be a wire department of the city of Boston which shall be under the charge of a commissioner of wires who shall be appointed by the mayor, subject to confirmation by the board of aldermen, for the term of three years, beginning with the first day of May in the year of his appointment and until his successor is appointed and confirmed. If the board of aldermen fail to confirm the commissioner of wires within sixty days after his nomination by the mayor, the mayor shall appoint said commissioner without confirmation. Said commissioner shall receive an annual salary of five thousand dollars or such other sum as the city council may, by ordinance, prescribe. The provisions of chapter seven of this consolidation and of all acts relating to the departments of the city of Boston, their officers or employees, shall, so far as appropriate, apply to said commissioner.

Commissioner
of wires,
appointment
and salary.
1890, 418, § 1.
1894, 454, § 1.

SECT. 2. It shall be the duty of said commissioner, and he shall have exclusive authority, to cause to be removed from the streets of said city, within the section prescribed in section two of chapter four hundred and fifty-four of the acts of the year nineteen hundred and four, or from above said streets, all wires, cables and conductors in and above said streets and above the surface thereof, and all poles and structures in said streets used for the support thereof, except such structures, poles, wires, cables and conductors as are excepted by said act, and to cause all such wires, cables and conductors to be placed, maintained and operated underground in accordance with the provisions of said act, and shall have general supervision and inspection of all wires, cables and conductors in said city. He shall further have and exercise all the powers of the officer provided for in section eighteen of chapter one hundred and twenty-two of the Revised Laws.

Duties of
commissioner
of wires.
1894, 454, § 1.

TITLE V.

THE PUBLIC SCHOOLS.

CHAPTER 33. — The Public Schools.

CHAPTER 33.

THE PUBLIC SCHOOLS.

THE SCHOOL COMMITTEE.

SECTION

1. School committee, election, qualification and tenure.
2. School committee final judge of election, etc., of members.
3. Organization and quorum.
4. Secretary, auditor, business agent, etc.
5. Powers and duties of committee.
6. Superintendent and assistant superintendents.
7. Board of superintendents.
8. Requisites to election of certain officers.
9. Nurses, appointment of.
10. Qualifications of nurses.

INCORPORATION OF SCHOOL COMMITTEE.

11. Incorporation of school committee.
12. Corporate powers and duties.
13. Charlestown school trust fund.

SCHOOLHOUSE DEPARTMENT.

14. Schoolhouse department.

SECTION

15. Annual report.
16. Powers and duties of schoolhouse commissioners.
17. Designation of additional school accommodations.
18. Issue of bonds.
19. Proceedings in selection of school sites.
20. Superintendent to submit opinion as to proposed changes.

APPROPRIATIONS FOR SUPPORT OF SCHOOLS.

21. Annual appropriations for support of schools.
22. Effect of vote making appropriations.
23. Certification of appropriations to assessors.
24. Disposition of unexpended balance of appropriations.

BOARD OF SALE.

25. Board of sale, duties, etc.
26. Disposition of proceeds of sale.

THE SCHOOL COMMITTEE.

SECTION 1. The school committee of the city of Boston shall consist of five inhabitants of said city, all of whom shall have been residents of said city for at least three years continuously prior to their election and none of whom shall be a member of either branch of the city council. They shall be elected by such persons as shall be qualified to vote for school committee in said city, for the term of three years beginning with the first Monday of January following their election, and they shall serve without compensation. At the annual city election there shall be elected, in manner aforesaid, in the year nineteen hundred and eight, two persons; in the year nineteen hundred and nine, one person; and, in the year nineteen hundred and ten, two persons; and, thereafter, at each annual city election, there shall be elected as many persons as

School committee, election, qualifications and tenure.
1821, 110, § 19.
1854, 448, §§ 53, 54.
1875, 241, § 1.
1906, 349, § 1.
1906, 231, § 1.
115 Mass. 602.

may be necessary to fill the places of the member or members of the committee whose term or terms are about to expire. Vacancies occurring in said committee by reason of death, resignation or otherwise shall be filled for the residue of the unexpired term at the next following annual city election.

SECT. 2. The school committee shall be the final judge of the qualification and election of their own members.

1864, 448, § 24. 1875, 241, § 2. 115 Mass. 383. 120 Mass. 118, 123.

SECT. 3. The members of the school committee shall meet and organize annually on the second Monday in January, and a majority of all the members of the committee shall be necessary to constitute a quorum for the transaction of business.

SECT. 4. The school committee shall choose a secretary, who shall not be one of their members, and who shall also serve as secretary to the board of superintendents, an auditor and a business agent, and they shall hold their respective offices until removed by the committee for cause. They may also elect such other subordinate officers, not specifically provided for by law, as they may deem expedient, and may remove them. The business agent may be elected without civil service examination or enrolment.

SECT. 5. The school committee shall have the supervision and direction of the public schools, and shall exercise the powers and perform the duties incident to the care and management thereof, except as otherwise provided, which are conferred or imposed by general laws upon the school committees of cities and towns. They may elect and discharge teachers and fix their compensation, but the salaries established at the commencement of any school year shall not be increased during such year. They shall, subject to the provisions of the civil service laws, appoint janitors for the school houses, fix their compensation, and designate their duties and may discharge them.

SECT. 6. The school committee shall in every sixth year after the year nineteen hundred and six elect a superintendent of schools for the term of six years from the first day of September in the year of his election, and they shall, annually, elect one assistant superintendent for the term of six years from the first day of September in the year of his election. If a vacancy shall occur in the office of superintendent or assistant superintendent, the school committee shall fill such vacancy or vacancies for the residue of the unexpired term. Said committee shall define the duties and fix the compensation of the superintendent and assistant superintendents and may remove them or any of them for cause. No member of either branch of the city council or of the school committee shall hold the office of superintendent or assistant superintendent.

SECT. 7. Said superintendent and assistant superintendents shall constitute a board to be known as the board of superintendents, and the superintendent shall, when present, preside at the meetings of said board. The powers and duties of said board shall be defined by the school committee.

School committee final judge of election, etc., of members.

Organization and quorum.
1864, 448, §§ 53, 55.
1875, 241, §§ 3, 4.
1886, 33.
1906, 213, § 2.

Secretary, auditor, business agent, etc.
1854, 448, § 55.
1875, 241, § 4.
1906, 213, § 1.

Powers and duties of committee.
1821, 110, § 12.
1854, 448, § 56.
1875, 241, § 5.
5 Cush. 198.
8 Cush. 160.
12 Gray 339.
105 Mass. 475.
116 Mass. 365.
122 Mass. 344.
123 Mass. 545.
127 Mass. 290.
133 Mass. 103.

Superintendent and assistant superintendents.
1875, 241, § 7.
1906, 231, § 1.

Board of superintendents
1906, 231, § 1.

Requisites to
election of cer-
tain officers.
1875, 241, § 8.
1906, 231, § 2.

SECT. 8. The votes of a majority of the whole number of members of the school committee shall be necessary to elect the superintendent of schools, the assistant superintendents, the head masters of the Latin, normal and high schools, the masters of the grammar schools, the director of a special study or exercise or any officer employed by said committee.

Nurses, ap-
pointment of.
1907, 357, § 1.

SECT. 9. The school committee shall appoint one supervising female nurse and so many district female nurses as in their opinion are necessary. Said nurses shall hold office for such terms as the school committee may determine and shall perform such duties as the committee may designate; but more particularly they shall assist the medical inspectors in their work in the public schools of the city, seeing that the directions given by the inspectors are complied with and giving such instruction to the pupils as will promote their physical welfare.

Qualifications
of nurses.
1907, 357, § 2.

SECT. 10. No person shall be appointed as such nurse unless she has taken a course of instruction in, and has been graduated from, some hospital or similar institution which gives a course of instruction in nursing of at least two years in length, and has presented to the school committee satisfactory evidence that she possesses good character and health, nor unless, in addition, she shall have passed an examination given under the direction of the school committee and designed to test her training, knowledge, character, experience and aptness for the work.

INCORPORATION OF SCHOOL COMMITTEE.

Incorporation
of school com-
mittee.
1877, 53, § 1.
1900, 235, § 1.
1906, 349, § 3.

SECT. 11. The members of the school committee for the time being are, and they and their official successors shall continue to be, a corporation by the name of The School Committee of the City of Boston, with all the powers and privileges, and subject to all the duties, restrictions and liabilities set forth in the general laws which now are, or may hereafter be, in force relating to such corporations.

Corporate
powers and
duties.
1877, 53, § 2.
1900, 235, § 1.
1906, 349, § 3.

SECT. 12. Said corporation shall continue to hold the money and funds now held by it, and real and personal estate not exceeding in the aggregate the value of two hundred thousand dollars, which may be given, granted, bequeathed or devised to it for the benefit of persons or the families of persons who are, have been or may hereafter be teachers in the public schools of the city of Boston and require charitable assistance; shall take and hold all property hereafter given to it for lectures and other educational purposes, including the property left by Robert C. Waterston, late of Boston, to be known as the Teachers' Waterston Fund; and, conforming to the directions of the donors thereof, shall manage and dispose of all said property, or the income thereof, according to its best discretion for the purposes aforesaid.

Charlestown
school trust
fund.
1792, 83.
1873, 286, § 12.

SECT. 13. Said corporation shall continue to hold the fund known as the Charlestown school trust fund, manage said fund and dispose of the income thereof within the limits of the

former city of Charlestown, according to the tenor of the instruments creating such trust.

1877, 53, § 3.
1900, 235, § 1.
1902, 242.
1905, 349, § 3.

SCHOOLHOUSE DEPARTMENT.

SECT. 14. The schoolhouse department of the city of Boston shall be under the charge of a board of three commissioners, citizens of Boston, and one of whom shall, annually, before the first day of June, be appointed by the mayor, without confirmation by the board of aldermen, for the term of three years beginning with the first day of June in the year of his appointment. Any vacancy occurring in said board shall be filled by the appointment of a commissioner in the manner aforesaid for the residue of the unexpired term. The chairman of the board shall receive an annual salary of four thousand dollars and each of the other members an annual salary of thirty-five hundred dollars. Such salaries and the other necessary expenses of said department shall be apportioned, subject to the approval of the mayor, and paid out of the proceeds of the bonds authorized by section four of chapter four hundred and seventy-three of the acts of the year nineteen hundred and one as amended by chapter three hundred and eighty-six of the acts of the year nineteen hundred and two, and out of such sums as shall be appropriated by the school committee under the provisions of section one of chapter three hundred and seventy-six of the acts of the year nineteen hundred and four. The provisions of chapter seven of this consolidation, and of all acts relating to the departments of the city of Boston, their officers and employees, shall, so far as appropriate, and not inconsistent herewith, apply to the schoolhouse department, its officers and employees.

Schoolhouse
department.
1901, 473, § 1.
1904, 376, § 1.

SECT. 15. Said board shall make an annual report in writing of its doings, and of all the business transacted by it, to the mayor, and such report shall be printed as a public document of the city.

Annual report.
1901, 473, § 1.
1904, 376, § 1.

SECT. 16. The schoolhouse commissioners shall have, in general, full power and authority to select and designate the land required for school buildings and their yards, to request the street commissioners to take the same, to make such alterations, additions and repairs on school buildings for school purposes as they deem necessary and to provide temporary accommodations for school purposes. They shall also have the full direction and control of the designs and plans, the construction, erection, completion, alteration, repair and furnishing of, and of the preparation of yards for, all school buildings, and may select and employ an architect or architects to design said school buildings and to supervise their construction and erection.

Powers and
duties of
schoolhouse
commis-
sioners.
1821, 110, § 19.
1854, 448, § 56.
1875, 241, § 6.
1889, 297.
1895, 408, § 1.
1899, 362.
1901, 473, § 2.

SECT. 17. The school committee shall annually, and as soon after the first of the year as may be practicable, designate in which of the school districts of the city additional school accommodations are necessary, and shall indicate the approximate number of additional pupils for which provision should be

Designation of
additional
school accom-
modations.
1907, 450, § 1.

made in each of said school districts, naming the school districts in the order in which, in its opinion, provision should be made for additional accommodations therein from the funds which may become available during that year under the provisions of the following section. The secretary of the school committee shall notify the board of schoolhouse commissioners of the city of the action taken by the school committee, as aforesaid, and the board of schoolhouse commissioners shall, within one month thereafter, certify in writing to the school committee the amount which, in its opinion, will be required for additional accommodations in each of the school districts specified, including land therefor, taking up the items in the order designated by the school committee and continuing until the aggregate of said amount is equal to the limit of the amount which may be provided during the year under the provisions of the following section. (When bonds are authorized to be issued under the following section, the amount so authorized shall be set aside for the school accommodations specified by the school committee under this section, taking up each item in the order designated by the school committee and setting aside for that item the amount certified by the schoolhouse commission as necessary therefor, and so continuing until the amount authorized is exhausted; but any amount so set aside for an item may be used for providing other school accommodations if the school committee and the schoolhouse commissioners of the city, by a concurrent vote, authorize such other use thereof to be made.

Issue of bonds.
1907, 450, § 2.

SECT. 18. For the purpose of meeting the expense of constructing and furnishing high and elementary school buildings in the city of Boston, of enlarging high and elementary school buildings in said city so as to provide additional school accommodations, of acquiring land as sites for said buildings and additions and as yards therefor, and of preparing such yards for use, the city treasurer of the city of Boston shall issue and sell negotiable bonds of the city to the amount determined to be necessary by the school committee, but such amount shall not exceed one million dollars in each of the years nineteen hundred and seven and nineteen hundred and eight, and in any year thereafter shall not exceed five hundred thousand dollars. Said bonds shall be payable in a period of years not exceeding twenty, at a rate of interest not exceeding four per cent. per annum. The orders of the school committee determining the amount of said bonds which the city treasurer is to issue shall be presented to the mayor for his approval or disapproval, and the same proceedings shall be had in relation thereto as are now prescribed by law in regard to other orders of said school committee involving the expenditure of money; *provided*, that if in either or both of the years nineteen hundred and seven and nineteen hundred and eight the amount of bonds so authorized to be issued exceeds seven hundred and fifty thousand dollars the amount authorized in excess thereof shall not

be reckoned in determining the statutory limit of indebtedness of the city. The proceeds of said bonds, to the amounts determined as aforesaid, shall be expended by the board of schoolhouse commissioners of the city in accordance with the provisions of sections fourteen, sixteen and seventeen of this chapter.

SECT. 19. The schoolhouse commissioners, before selecting a site for a public school, shall give notice by advertisement in at least three daily newspapers published in the city of Boston that sealed proposals to sell land to the city for such site within or near the school district designated in the notice will be received at the office of the commissioners until twelve o'clock, noon, on the fourteenth day after the date of such notice, and will then be publicly opened and read, and that a public hearing will be given by said commissioners at a time and place designated in the notice, which time shall be not less than three weeks subsequent to the date of such notice, at which such proposals and the suitability of the lands offered will be considered, and after such hearing the schoolhouse commissioners may select and designate such lands for such site as they shall deem best adapted therefor and as the mayor shall approve.

Proceedings in selection of school sites. 1867, 202, § 1. 1901, 473, § 1.

SECT. 20. The board of schoolhouse commissioners shall not erect or substantially alter any building or provide temporary school accommodations, or furnish school buildings, or prepare school yards until the superintendent of schools shall have submitted to them his opinion in writing of the proposed changes and plans; nor shall said board request the street commissioners to take any land except within the limits of a school district which shall first be designated by the school committee.

Superintendent to submit opinion as to proposed changes. 1901, 473, § 5.

APPROPRIATIONS FOR SUPPORT OF SCHOOLS.

SECT. 21. The school committee, in each year, by vote of two-thirds of all its members, taken by yeas and nays, may make an appropriation in one sum for constructing and furnishing new school buildings, including the taking of land therefor and for school yards, and the preparing of school yards for use, and may also make an appropriation in one sum for repairs and alterations of school buildings, and may make such other appropriations by items for the support of the public schools as it deems necessary. The total amount to be used in any one financial year for the public schools of the city and their support, in addition to the money which may be given therefor, the income collected, the balance of appropriations of years preceding such year, and the money which may be authorized by acts of the general court passed prior to the year nineteen hundred and two and not repealed, shall not exceed an amount equal to three dollars and forty-six cents, upon each one thousand dollars of the valuation on which the appropriations of the city council are based; and the amount which may be so raised shall be appropriated by the school committee as aforesaid, and shall be

Annual appropriations for support of schools. 1898, 400, § 1. 1901, 448. 1903, 170. 1906, 203. 1907, 295 § 3; 357, § 3.

a part of and be met by taxes within the tax limit; and of said amount of three dollars and forty-six cents not less than forty cents upon every such one thousand dollars shall be appropriated solely for new school buildings, lands, yards and furnishings as aforesaid, not less than twenty-five cents upon every such one thousand dollars shall be appropriated solely for repairs and alterations of school buildings, four cents upon every such one thousand dollars shall be appropriated solely to meet the expenses incurred under the provisions of chapter two hundred and ninety-five of the acts of the year nineteen hundred and seven relative to physical education in the public schools, and two cents upon every such one thousand dollars shall be appropriated to meet the expenses incurred under the provisions of sections one and two of chapter three hundred and fifty-seven of the acts of the year nineteen hundred and seven relative to nurses in the public schools.

Effect of vote making appropriations. 1898, 400, § 2.

SECT. 22. The votes of said school committee making such appropriations shall have the same force and effect as orders or votes of the city council appropriating money, and shall be subject to the same provisions of law in respect to approval by the mayor, except that a vote of three-fourths of all the members of said school committee, taken by yeas and nays, shall be necessary to pass any such appropriation over the veto of the mayor.

Certification of appropriations to assessors. 1898, 400, § 3.

SECT. 23. After an order or vote of said school committee making an appropriation shall have gone into effect, the aggregate amount so appropriated shall be certified by the school committee to the board of assessors, and shall be included by said assessors in the amount to be raised by taxation in said city for such year.

Disposition of unexpended balance of appropriation. 1898, 400, § 4.

SECT. 24. Any balance of an appropriation so made by said school committee remaining unexpended at the close of any financial year, and not needed to carry out the requirements of any statute, gift, trust or special appropriation, and any amount within the limit above defined for such year not appropriated by said committee, shall be added to the amount which said committee may appropriate, as herein authorized, for the financial year next ensuing.

BOARD OF SALE.

Board of sale, duties, etc. 1906, 259, § 1.

SECT. 25. The mayor, the school committee and the school-house commissioners, acting jointly, shall constitute a board with power to sell and convey any land or buildings owned by the city which, at the time of such sale, are or have been used for school purposes, and which the school committee, by a majority vote of all its members, shall have voted it is advisable to sell. Said board shall, after the passage of such vote of the school committee, forthwith offer for sale, and sell, when a suitable price can be obtained, the land or buildings specified in such vote; and the mayor, when authorized by a majority of said board, shall forthwith execute a proper instrument to con-

vey such land or buildings. The school committee may continue to use any of such land or buildings until the completion of the sale and conveyance thereof.

SECT. 26. The proceeds of any sale of land or buildings under the provisions of the preceding section shall be expended by the schoolhouse commissioners for the purchase of land and the erection of new buildings for school purposes in accordance with the provisions of this chapter.

Disposition of
proceeds of
sale.
1888, 400, § 5.
1906, 250, § 3.

PART II.

THE ADMINISTRATION OF MUNICIPAL BUSINESS.

- CHAPTER 34. — The Art Department.
CHAPTER 35. — Bridges and Ferries.
CHAPTER 36. — Building Laws.
CHAPTER 37. — Cemeteries.
CHAPTER 38. — County Finances and Constables.
CHAPTER 39. — Fire Department.
CHAPTER 40. — The Supervision of Gas Fitting and Gas Fitters.
CHAPTER 41. — Harbor Regulations.
CHAPTER 42. — Health Regulations.
CHAPTER 43. — Insane Persons and their Care and Treatment.
CHAPTER 44. — Markets.
CHAPTER 45. — Parks and Public Grounds.
CHAPTER 46. — Penal and Reformatory Institutions.
CHAPTER 47. — Police Regulations.
CHAPTER 48. — Schools and School Teachers.
CHAPTER 49. — Sewers and Drains.
CHAPTER 50. — Sidewalks.
CHAPTER 51. — Streets and Ways.
CHAPTER 52. — Wires and Electrical Apparatus.
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CHAPTER 34.

THE ART DEPARTMENT.

SECTION

1. Definition of term "work of art."
2. Approval of works of art.
3. Same subject.

SECTION

4. Limit of time for decision of commission.
5. Contracts to be made by commission.

SECTION 1. The term "work of art," as used in this chapter shall apply to and include all paintings, mural decorations, statues, bas-reliefs, sculptures, monuments, fountains, arches, ornamental gateways and other structures of a permanent character intended for ornament or commemoration.

Definition of term "work of art."
1890, 410, § 4.

SECT. 2. No work of art shall become the property of the city of Boston, by purchase, gift or otherwise, unless such work of art or the design for the same together with a statement of the proposed location of the same shall first have been submitted to and approved by the board of art commissioners authorized by chapter eleven of this consolidation acting by a majority of all its members; nor shall any work of art, until so approved, be erected or placed in, over or upon, or be allowed to extend in, over or upon any street, avenue, square, place, common, park, municipal building, or other public place under the con-

Approval of works of art.
1890, 122, § 2.
1898, 410, § 2.

trol of said city, or of any department or officer thereof. No existing work of art in the possession of said city shall be removed, relocated or altered in any way without the similar approval of said commission, and any such work of art shall be removed, relocated or altered in any way that may be ordered by a vote passed and approved in writing by all the members of said commission and also approved by the mayor.

Same subject.
1890, 122, § 3.
1898, 410, § 8.

SECT. 3. When so requested by the mayor or the city council, said commission may, in its discretion, act in a similar capacity with similar powers in respect to the design of any municipal building, bridge, approach, lamp, ornamental gate or fence, or other structure erected or to be erected upon land belonging to the city, and in respect to any arch, bridge, structure or approach which is the property of any corporation or individual, and extends in, over or upon any street, avenue, highway, park or public place; but this section shall not apply to structures authorized to be erected under the provisions of chapter five hundred of the acts of the year eighteen hundred and ninety seven, and shall not be construed as intended to impair the power of the board of park commissioners of said city to refuse its consent to the erection or acceptance of any public monument or memorial, or other work of art of any sort within any park or public place in said city under the jurisdiction of said board.

Limit of time
for decision of
commission.
1898, 410, § 5.

SECT. 4. If said commission fails to decide upon any matter submitted to it within sixty days after such submission, its decision shall be deemed unnecessary.

Contracts to be
made by com-
mission.
1898, 410, § 6.

SECT. 5. All contracts or orders for the execution of any painting, monument, statue, bust, bas-relief or other sculpture for said city shall be made by said commission acting by a majority of all its members, subject to the approval of the mayor.

CHAPTER 35.

BRIDGES AND FERRIES.

SECTION

BRIDGES.

1. Width of bridges and construction without draw.
2. Management and maintenance of Cambridge bridges.
3. Broadway bridge.
4. Charlestown bridge.
5. Charles river dam.
6. Chelsea bridge.
7. Chelsea creek bridge.
8. Chelsea point bridge.

SECTION

9. Chelsea street bridge.
10. Congress street bridge.
11. Dover street bridge.
12. Longwood avenue bridge.
13. Malden bridge.
14. Meridian street bridge.
15. Mt. Washington avenue bridge.
16. Warren bridge.

FERRIES.

17. Maintenance of East Boston ferries.

BRIDGES.

Width of
bridges and
construction
without draw.
1902, 224.

SECTION 1. Subject to the approval of the board of harbor and land commissioners, the city of Boston and any other city or town between which and the city of Boston any bridge has

heretofore been built or authorized to be built, or between which and the city of Boston any bridge shall hereafter be authorized to be built, may widen any such bridge to a width not exceeding one hundred and five feet, may widen the draw opening thereof, may discontinue the draw of any such bridge below which a bridge has been authorized without a draw, and may build piers, guards and fenders for maintaining and protecting any such bridge or draw.

SECT. 2. The Cambridge bridge, so-called, and all other bridges and draws between the cities of Boston and Cambridge shall be policed and maintained by said cities, and a board of two commissioners, one of whom shall be appointed by the mayor of the city of Boston and one by the mayor of the city of Cambridge, without any confirmation thereof being required, shall support, manage and keep in repair said bridges, and exclusively authorize poles, wires and other structures to be placed on any or all of the same, in such places as said board may deem proper; and each city shall appropriate one-half of the amount required for such maintenance, policing, support, management and repairs as determined by said board and by the mayors of said cities; and all damages recovered in any action at law by reason of any defect or want of repair in any such bridge or draw shall be paid by said cities equally. The supreme judicial court, or any justice thereof, sitting in equity for either the county of Middlesex or the county of Suffolk shall, upon the petition of any city, corporation, person or persons interested, or of his or its attorney, have jurisdiction in equity to enforce and to prevent any violation of the provisions of this section.

Management and maintenance of Cambridge bridges. 1836, 467, §§ 14, 15. 1804, 412, § 7.

SECT. 3. The city of Boston shall, at all times, open and close the draw of the Broadway bridge over Fort Point channel for the accommodation of vessels having occasion to pass the same.

Broadway bridge. 1866, 188.

SECT. 4. The approaches to the bridge formerly known as the Charles River bridge, which was discontinued under the authority of section thirty of chapter five hundred and forty-eight of the acts of the year eighteen hundred and ninety-four, shall be forever kept open for landing places or other public uses.

Charles river bridge. 1804, 348, § 30.

SECT. 5. Upon the completion of the dam across the Charles river between the cities of Boston and Cambridge as authorized by chapter four hundred and sixty-five of the acts of the year nineteen hundred and three, a part of said dam shall be a highway and the remainder shall be a park or parkway as the Charles river basin commission shall determine. Such part as is used as a highway shall be maintained and operated in the same manner as the Cambridge bridge and under the laws now or hereafter in force relating to said bridge.

Charles river dam. 1836, 531. 1903, 466, §§ 3, 7.

SECT. 6. The city of Chelsea shall maintain and repair that portion of Chelsea bridge over Mystic river lying northeast of the northeasterly draw therein; and the city of Boston, that portion lying southwest of said draw as well as said draw and

Chelsea bridge. 1878, 41. 1880, 149. P. S. 22, § 8. R. L. 20, § 9.

the draw piers thereof. Each city shall be liable for damages resulting from defects in the portion of said bridge which it is required to maintain and repair.

Chelsea creek
bridge.
1887, 374.
1894, 166.
1908, 358.

SECT. 7. The cities of Boston and Chelsea or either of them, subject to the provisions of chapter ninety-six of the Revised Laws may maintain a highway drawbridge across Chelsea creek, from or near Orient Heights in the city of Boston to a point at or near Webster avenue in the city of Chelsea. The bridge shall be built and paid for by one or both of said cities in such manner and upon such terms and conditions as the said cities, each acting by its board of aldermen, with the approval of the mayor, shall agree upon.

Chelsea point
bridge.
1886, 100.
1843, 91.
1849, 106, § 1.

SECT. 8. The city of Boston, which was authorized by chapter one hundred and six of the acts of the year eighteen hundred and forty-nine to purchase the franchise of the Chelsea point bridge over Chelsea creek from the westerly side of Pulling point in the city of Chelsea to the easterly side of Belle Isle in the city of Boston with all the rights and property incident thereto shall be liable for all damages to travellers over said bridge happening through any defects of the same in the same way and manner as towns are liable for all defects in highways and bridges.

Chelsea street
bridge.
1884, 130.
1849, 109.

SECT. 9. The Chelsea street bridge, across Chelsea creek from the northerly side of Noddle's Island, in the harbor of Boston, to the city of Chelsea shall be provided with a good and sufficient draw not less than twenty feet wide, which draw shall, at all times, upon demand, be opened for the passage of vessels which cannot pass under said bridge. No toll shall be demanded of any person who shall pass over said bridge.

Congress
street bridge.
1891, 388.

SECT. 10. The city of Boston is authorized and required to maintain a public highway bridge across the reserved channel on the South Boston flats in said city, connecting Eastern avenue or Congress street, so called, as laid out and graded by the commonwealth, with L street extended to the southerly line of said channel.

Dover street
bridge.
1808, 18.
1831, 71, § 1.
1896, 405.

SECT. 11. The city of Boston shall always be held liable to keep the Dover street bridge, so called, in good repair, to open the draw of said bridge and afford all necessary and proper accommodation to vessels which have occasion to pass the same by night or by day, and shall keep said bridge sufficiently lighted. No toll or duty shall ever be exacted or paid for any travel over said bridge or passing the draw thereof. The Brookline Gas Light Company and its successors may lay and maintain its gas pipes and such siphons and other structures as are necessary to cover or carry the same to and across Fort Point Channel under or by the side of said bridge, subject to the provisions of chapter ninety-six of the Revised Laws and acts in amendment thereof and in addition thereto.

Longwood
avenue bridge.
1897, 162, § 5.

SECT. 12. The board of park commissioners of the city of Boston and the board of park commissioners of the town of Brookline shall jointly maintain and keep in repair the Long-

wood avenue bridge, so called, and its abutments, and said city and town shall be jointly liable for all damages occasioned by any defect or want of repair therein, or want of sufficient railing thereon, subject however to all the provisions of law now or hereafter in force limiting or regulating the right to recover damages for defects in public ways.

SECT. 13. The city of Boston shall maintain and keep in repair the Malden bridge, so called, across the Mystic river, shall maintain and operate the draw therein, and shall be liable under the limitations of law for all damages for which towns are liable resulting from or recovered by reason of any defect in or want of repair of the same. But said bridge shall be maintained subject to the provisions of chapter ninety-six of the Revised Laws and of all laws which now are or may hereafter be in force relating to bridges over tide water, except that no compensation for displacement of tide water or for occupying any lands or flats of the commonwealth shall be required from said city.

Malden bridge.
1859, 99.
1869, 266.
1874, 139.
1899, 280, §§ 2, 4.
192 Mass. 397.

SECT. 14. The Meridian street bridge, so called, which was constructed under chapter three hundred and thirty-five of the acts of the year eighteen hundred and fifty-five, shall be provided with a pivot or turn-table draw with two openings, each not less than sixty feet wide and with such guards or piers as the safety of the bridge may require. Such draw shall, at all times, upon demand, be opened for the passage of vessels which cannot pass under said bridge. No toll shall be demanded of any person who shall pass over said bridge.

Meridian street bridge.
1855, 335, § 3.
1856, 109.

SECT. 15. The city of Boston shall maintain the Mount Washington avenue bridge in good repair and safe condition, and shall open the draw and afford all proper and convenient accommodation to vessels having occasion by day or by night to pass through it. The said bridge shall be open to the public free of toll.

Mount Wash-
ington avenue
bridge.
1853, 255.
1855, 424.

SECT. 16. The city of Boston shall have the care and management of the Warren bridge and shall maintain said bridge as a public highway at its own expense and in accordance with such ordinances as the city council may establish, but said city shall have no authority to take tolls on said bridge.

Warren
bridge.
1841, 48.
1842, 48.
1854, 441, § 7.
1859, 186, § 1.
1867, 66, § 1.
1898, 322, § 4.
1869, 272, § 5.

1870, 303, § 5. 1874, 259, §§ 1, 2. 1882, 138, § 3. 129 Mass. 592. 148 Mass. 545.

FERRIES.

SECT. 17. The city of Boston shall cause the East Boston ferries to be maintained and operated in such manner as the city council may from time to time direct, and may levy and collect such rates of ferriage upon all teams and vehicles passing over said ferries as it may judge expedient; but the ferriage of a foot passenger shall not exceed one cent.

Maintenance
of East Boston
ferries.
1869, 155, §§ 5, 7.
123 Mass. 460.

CHAPTER 36.

BUILDING LAWS.

GENERAL PROVISIONS.

SECTION

1. Building permits.
2. Record and publication of violations.
3. Examinations, etc., of dangerous buildings.
4. Inspection of unsafe buildings.
5. Proceedings upon receipt of notice.
6. Appeal to board of appeal.
7. Equivalent methods of construction, authorized.
8. Building limits of Boston.
9. Application of chapter.
10. Construction of chapter.
11. Definitions.
12. Requirements for all buildings.
13. Prohibitions.

MATERIALS.

14. Stresses in materials.
15. Quality of materials.
16. Methods of computation.

CLASSIFICATION.

17. Construction of first and second class buildings.

CONSTRUCTION.

18. Height of buildings.
19. Excavations.
20. Piling.
21. Foundations of first and second class buildings.
22. Cellars.
23. Thickness of walls.
24. Anchors.
25. Brickwork — bonding.
26. Vaulted walls.
27. Iron or steel external walls.
28. Party walls above roof.
29. Walls and cornices.
30. Piers and hearths.
31. Openings and doorways in party walls.
32. Fire protection.
33. Fireproof partitions.
34. Timbers in walls of second class buildings.
35. Alteration of existing buildings.
36. Floors and loads.
37. Shutters.
38. Elevators.
39. Wooden buildings.
40. Height of wooden buildings and party walls.
41. Flooring during construction.

ADDITIONAL REQUIREMENTS FOR TENEMENT HOUSES.

42. Definitions.
43. Fire escapes.
44. Bulkheads and scuttles.
45. Stairs and public halls.
46. Stair halls, construction of.
47. Stair halls, how enclosed.

SECTION

48. Entrance halls.
49. Cellar ceilings.
50. Partitions, construction of.
51. Wooden tenement houses.
52. Elevator or dumb-waiter shafts.
53. Bakeries and fat boiling.
54. Precautions where dangerous substances are stored.
55. Tenement house yards.
56. — exemption from maintenance, when.
57. Unobstructed courts.
58. Outer courts for tenement houses.
59. Inner courts.
60. Vent courts.
61. Intakes.
62. Buildings on same lot with tenement houses.
63. Windows and alcoves in tenement houses.
64. Size of rooms.
65. Public halls.
66. Stair hall windows.
67. Privacy.
68. Basements in tenement houses.
69. Water-closets in tenement houses.
70. Lighting and ventilation of existing tenement houses.
71. Skylights.
72. Water-closets in existing tenement houses.
73. Water supply.
74. Grading and drainage of court yards.
75. Receptacles for garbage and ashes.
76. Powers of building commissioner.

THEATRES.

77. Definition of theatre.
78. Construction of theatres.
79. Open courts for theatres.
80. Inner courts.
81. Stores in theatre buildings.
82. Theatre floor levels.
83. Proscenium wall.
84. Fire resisting curtain.
85. Stage floor.
86. Ventilators.
87. Seats in auditorium.
88. Aisles in theatres.
89. Changes in floor levels.
90. Lobbies.
91. Stage doors.
92. Room exits.
93. Doors to open outwardly.
94. False doors prohibited.
95. Main floors and first gallery exits.
96. Exits.
97. Aggregate width of exits.
98. Emergency exits.
99. Additional requirements.
100. Stairs.
101. Stair landings.
102. Hand rails.

SECTION

- 103. Width of stairs.
- 104. Radiators forbidden in passageways. Sprinklers.

PLACES OF PUBLIC ASSEMBLY.

- 105. Places of public assembly.
- 106. Moving picture shows.
- 107. Exits.
- 108. Roof gardens.
- 109. Exits from roof gardens.
- 110. Summer theatres.
- 111. Existing theatres.

PLUMBING.

- 112. Definition of plumbing terms.
- 113. Registration of plumbers.
- 114. Notices.
- 115. Connection with sewer or drain.
- 116. Inspection and tests.
- 117. Soil and waste pipes and traps. Stables.
- 118. Back air-pipe vent.
- 119. Refrigerator wastes and drip-pipes.
- 120. Water-closets.
- 121. Size and weight of materials.
- 122. Drain pipes, etc.
- 123. Special traps.
- 124. Roof leaders and surface drains.

SECTION

HAZARDOUS BUILDINGS AND APPLIANCES FOR POWER AND HEAT.

- 125. Buildings for hazardous purposes.
- 126. Storage of combustibles regulated.

ENFORCEMENT OF CHAPTER.

- 127. Liability of owner and lessee.

POWERS OF THE BOARD OF HEALTH.

- 128. Limitation of number of occupants.
- 129. Enforcement of provisions of this chapter. Jurisdiction in equity.
- 130. Jurisdiction of municipal court of Boston.
- 131. Advancement of cases.
- 132. Nuisance. Penalty.

HEIGHT OF BUILDINGS.

- 133. Height of buildings on Copley square.
- 134. Height of buildings on parts of Beacon and Bowdoin streets.
- 135. Height of buildings in districts A and B.
- 136. Same subject.
- 137. Exemptions from height limits.
- 138. Height of buildings on Rutherford avenue.

GENERAL PROVISIONS.

SECTION 1. All applications for permits under the provisions of this chapter shall be in writing, on forms furnished by the department. The commissioner may require the material facts set forth in the same to be verified by the oath of the applicant; he may also require, in his discretion, a survey of a lot on which any proposed building is to be erected to be filed with the application. Every application shall state the name and address of the owner.

Building permits, etc.
1871, 280, § 18.
1872, 871, § 22.
1885, 874, § 15.
1892, 419, §§ 6, 11, 15.
1899, 185.
1907, 560, § 1.

All permits issued by the commissioner shall be on printed forms approved by him.

If the commissioner finds that the terms of a permit are being violated, he may, after notice mailed to the person to whom the permit was issued, order the whole or any part of the work, which is being done under the permit, to be stopped, and such work shall not be resumed until the terms of the permit have been complied with.

The commissioner may require plans and specifications of any proposed structure or for the alteration of any structure or building to be filed with him, duplicates of which, when approved by the commissioner, shall be kept at the building during the progress of the work. Such duplicates shall be open to the inspection of any inspector in said department.

The present officers and employees of the building department shall hold their several offices and positions until removed or discharged according to law.

SECT. 2. The commissioner, or one of his inspectors, shall examine as often as is practicable every building in the

Record and publication of violations.

1871, 280, § 9.
1885, 374, § 10.
1892, 419, § 7.
1907, 550, § 2.

course of construction or alteration, and shall make a record of all violations of this chapter and of all other matters relative thereto. The publication of such records with the consent of the commissioner shall be privileged.

Examination,
etc., of danger-
ous buildings.
1871, 280, § 9.
1885, 374, § 10.
1892, 419, § 8.
1907, 550, § 3.

SECT. 3. The commissioner, or one of his inspectors, shall examine any building reported as dangerous or damaged, and shall make a record of such examination, stating the nature and estimated amount of the damage, and the purpose for which the building was used, and in case of fire the probable origin thereof; and shall examine all buildings in respect to which applications have been made for permits to raise, enlarge, alter or repair, and shall make a record of every such examination.

Inspection
of unsafe
buildings.
1871, 280, §§ 51,
52.
1872, 371, § 17.
1873, 398, § 11.
1885, 374, § 11.
1892, 419, § 8.
1907, 550, § 4.

SECT. 4. The commissioner, or one of his inspectors, shall inspect every building or other structure or anything attached to or connected therewith which he has reason to believe is unsafe or dangerous to life, limb, or adjoining buildings, and if he finds it unsafe or dangerous, he shall forthwith in writing notify the owner, agent or any person having an interest therein, to secure the same, and shall affix in a conspicuous place upon its external walls a notice of its dangerous condition. The notice shall not be removed or defaced without his consent.

The commissioner may with the written approval of the mayor order any building which in his opinion is unsafe to be vacated forthwith.

Proceedings
upon receipt
of notice.
1871, 280, § 53.
1873, 398, §§ 12,
14.
1885, 374, § 11.
1907, 550, § 5.
160 Mass. 421.

SECT. 5. The person notified as provided in the preceding section shall secure or remove said building, structure, attachment or connection forthwith. If the public safety so requires, the commissioner, with the approval of the mayor, may at once enter the building or other structure, the land on which it stands or the abutting land or buildings, with such assistance as he may require, and secure the same, and may erect such protection for the public by proper fence or otherwise as may be necessary, and for this purpose may close a public highway.

Appeal to
board of ap-
peal.
1885, 374, § 7.
1892, 419, § 13.
1898, 464, § 1.
1899, 445, § 2.
1907, 550, § 7.
175 Mass. 394.

SECT. 6. An applicant for a permit whose application has been refused may appeal therefrom within ninety days. A person who has been ordered by the commissioner to incur any expense may within ten days after being notified of such order appeal therefrom by giving to the commissioner notice in writing of his appeal. Such notice or a certified copy thereof shall at once be transmitted by the commissioner to the board of appeal. After notice given to such parties as the board shall order, a hearing shall be had, and the board shall affirm, annul, or modify said refusal or order. The board may vary the provisions of this chapter in specific cases which appear to them not to have been contemplated by this chapter although covered by it, or in cases where manifest injustice is done, *provided* that the decision of the board in such a case shall be unanimous and shall not conflict with the spirit of any provision of this chapter.

The decision shall specify the variations allowed and the reasons therefor, and shall be filed in the office of the commissioner within ten days after the hearing. A certified copy shall be sent by mail or otherwise to the applicant and a copy kept publicly posted in the office of the commissioner for two weeks thereafter. If the order or refusal of the commissioner is affirmed, such order or refusal shall have full force and effect. If the order or refusal is modified or annulled, the commissioner shall issue a permit in accordance with such decision.

The provisions of this section shall also apply to any similar action or order of the commissioner of wires, under the provisions of chapter two hundred and sixty-eight of the acts of the year eighteen hundred and ninety-eight, or of any amendment thereof or addition thereto, except that in respect thereto the words "commissioner of wires" shall be substituted for the word "commissioner."

SECT. 7. Methods of construction or maintenance equivalent to those required by the provisions of this chapter may be allowed with the written consent of the commissioner and the board of appeal specifying the same. A record of the required and the equivalent method allowed shall be kept in the office of the commissioner.

Equivalent
methods of
construction
authorized.
1907, 550, § 8.

It shall be the duty of the board of appeal to submit to the mayor on or before the first day of February in each year a report giving a summary of all decisions of the board, together with such recommendations for revision of the law as may seem to them advisable. The commissioner shall cause the report to be printed as a separate document for public distribution.

Any requirement necessary for the strength or stability of any proposed structure or for the safety of the occupants thereof, not specifically covered by this chapter, shall be determined by the commissioner, subject to appeal.

SECT. 8. The building limits of the city of Boston as they now exist shall continue until changed by ordinance, and the city council may by ordinance from time to time extend and define said building limits, and may establish other limits in any part of the city within which every building built after the establishment thereof shall be of the first or second class. This restriction shall not apply to wharves, nor to buildings not exceeding twenty-seven feet in height on wharves, nor to market sheds or market buildings not exceeding such height, nor to elevators for the storage of coal or grain, if the external parts of such buildings, elevators, or other structures are covered with slate, tile, metal, or other equally fireproof material, and the mode of construction and the location thereof are approved by the commissioner. Temporary structures to facilitate the prosecution of any authorized work may be erected under such conditions as the commissioner may prescribe.

Building limits
of Boston.
1871, 280, § 3.
1872, 260, § 1.
1882, 101.
1885, 374, § 21.
1892, 419, §§ 18,
135.
1907, 550, § 9.

SECT. 9. The provisions of this chapter shall not apply to bridges, quays, or wharves, nor to buildings on land ceded to the United States or owned and occupied by the commonwealth,

Application of
chapter.
1871, 280, § 13.
1885, 374, § 16.
1892, 419, § 16.
1894, 443, § 3.
1907, 550, § 10.

nor to the Suffolk county court house, jail, or house of correction, nor to railroad stations, nor to portable school buildings erected and maintained by the schoolhouse department, nor to voting booths erected and maintained by the board of election commissioners.

Construction
of chapter.
1907, 530, § 10.

SECT. 10. Except as otherwise provided by law, the provisions of this chapter shall not be held to deprive the board of health, the police commissioner, the board of street commissioners, the board of park commissioners, the board of examiners of gas fitters, the commissioner of wires, or the fire commissioner of the city of Boston of any power or authority which they had on the first day of August in the year nineteen hundred and seven, or of the remedies for the enforcement of the orders of said boards or officers; unless such powers, authorities, or remedies are inconsistent with the provisions of this chapter; nor to repeal any existing law, nor herein expressly repealed, except so far as it may be inconsistent with the provisions of this chapter.

Definitions.
1871, 280, §§ 2,
20.
1885, 374, §§ 17,
18, 19.
1892, 419, §§ 17,
23.
1894, 443, § 5.
1897, 413, § 1.
1898, 308.
1904, 368.
1907, 530, § 11.

SECT. 11. In this chapter, the following terms shall have the meanings respectively assigned to them:

First class building:—A first class building shall consist of fireproof material throughout, with floors constructed of iron, steel or reinforced concrete beams, filled in between with terracotta or other masonry arches or with concrete or reinforced concrete slabs; wood may be used only for under and upper floors, windows and door frames, sashes, doors, interior finish, hand rails for stairs, necessary sleepers bedded in the cement, and for isolated furrings bedded in mortar. There shall be no air space between the top of any floor arches and the floor boarding.

Second class building:—All buildings not of the first class, the external and party walls of which are of brick, stone, iron, steel, concrete, reinforced concrete, concrete blocks, or other equally substantial and fireproof material.

Third class building:—A wooden frame building.

Composite building:—A building, partly of second class and partly of third class construction.

Foundation:—That part of a wall below the level of the street curb, or, if a wall is not on a street, that part of the wall below the level of the highest ground next to the wall, or, if so construed by the commissioner, that part of a party or partition wall below the cellar floor.

Height of a building:—The vertical distance of the highest point of the roof above the mean grade of the curbs of all the streets upon which it abuts, and if it does not abut on a street, above the mean grade of the ground adjoining the building.

Party wall:—A wall that separates two or more buildings, and is used or adapted for the use of more than one building.

Partition wall:—An interior wall of masonry in a building.

Thickness of wall:—The minimum thickness of such wall.

Story of a building: — That part of a building between the top of any floor beams and the top of the floor or roof beams next above.

Basement: — That story of a building not more than forty per cent. of which is below the grade of the street.

Cellar: — That part of a building more than forty per cent. of which is below the grade of the street, and in third class buildings that part of the building which is below the sills.

Gas fitting shall mean the work of putting together any fittings, pipe or fixtures or other appliances which are to contain gas for heat, light or power purposes and will be subject to inspection under existing laws.

SECT. 12. No building, structure or foundation shall be constructed or altered without a permit, and such work shall be done in accordance with drawings bearing the approval of the commissioner.

Every structure in process of construction, alteration, repair or removal, and every neighboring structure or portion thereof affected by such process or by any excavation, shall be sufficiently supported during such process.

The commissioner may take such measures as the public safety requires to carry these provisions into effect.

All buildings shall have leaders sufficient to discharge the roof water in such a manner as not to flow upon any public way or any neighboring property. Such leaders may project into a public way not over seven inches.

Every chimney flue shall be carried to a height sufficient to protect adjoining buildings from fire and smoke, and, unless the roof is covered with incombustible material, shall extend at least four feet above the highest point of contact with the roof.

Every permanent building more than twenty feet high having a flat roof shall have permanent means of access to the roof from the inside by an opening not less than two feet by three feet, with a fixed step-ladder.

Every building shall have, with reference to its height, condition, construction, surroundings, character of occupation and number of occupants, reasonable means of egress in case of fire, satisfactory to the commissioner, except that in all factories or workshops hereafter built or altered, of second class construction, where ten or more persons are employed above the second floor, one exit shall consist of a fireproof stairway enclosed in incombustible material.

Water pipes in every building shall be properly protected from frost.

All chimneys of masonry construction shall have walls at least eight inches thick, or be constructed of four-inch brick walls with a suitable flue lining.

Every building used for habitation shall have such number of water-closets as the board of health may require; every building where persons are employed shall have at least one water-closet for every twenty persons therein employed, and in

Requirements
for all build-
ings.
1871, 280, § 31.
1872, 371, § 19.
1885, 374, § 101.
1892, 419, §§ 26,
59, 60, 65, 68, 71,
80, 81, 133.
1895, 314.
1907, 550, § 12.
170 Mass. 384,
388.

any building where both sexes are employed, separate accommodations shall be furnished for men and women. Every enclosure containing one or more water-closets shall be provided with adequate ventilation to the outer air either by window or by suitable light shaft.

In every first and second class building, all of the outside finish shall be of incombustible material, except window and door frames, and except finish about show windows in the first story. Where store fronts are carried up more than one story, the columns and lintels shall be of, or finished with, incombustible material; but in no case shall store fronts be carried more than two stories unless the same are constructed and finished throughout with fireproof material, except window and door frames.

Every ventilating flue shall be constructed of, or lined with, incombustible material.

Every floor in second class buildings shall have its beams tied to the walls and to each other with wrought-iron straps or anchors at least three eighths of an inch thick by one and one half inches wide, and not less than eighteen inches long, so as to form continuous ties across the building not more than ten feet apart. Walls running parallel, or nearly parallel, with floor beams shall be properly tied once in ten feet to the floor beams by iron straps or anchors of the size above specified.

Every wooden header or trimmer more than four feet long, carrying a floor load of over seventy pounds per square foot, shall, at connections with other beams, be framed or hung in stirrup irons, and joint-bolted. All tail beams and similar beams of wood shall be framed or hung in stirrup irons.

SECT. 13. No alteration or repair of a wooden building within the building limits shall be made without a permit from the commissioner, and no permit to increase the height or ground area of such a building shall be granted, nor shall a permit for alterations or repairs be granted if the estimated cost of the proposed alterations or repairs exceeds one half of the cost of a like new building.

No wooden building, within or without the building limits, shall be moved to any position within the building limits.

No recess or chase shall be made in any external or party wall so as to leave the thickness at the back less than eight inches.

No roof or floor timber entering a party wall shall have less than four inches of solid brickwork between it and the end of any other timber.

No part of any roof shall be constructed in such a manner as to discharge snow, ice or other material upon a public street or alley.

No elevated staging or stand for observation purposes shall be constructed or occupied upon the roof of any building.

No chimney shall be corbelled from a wall more than the thickness of the wall.

Prohibitions.

1789, 31, § 4.
1871, 280, §§ 16,
17, 25.
1872, 260, § 1.
1882, 352, § 3.
1885, 374, §§ 22,
23, 43, 47, 53, 70,
74, 77, 82, 85.
1892, 419, §§ 20,
21, 44, 57, 62, 67,
72, 73, 96, 106,
115.
1894, 443, §§ 3,
6, 7, 17, 21.
1897, 300, § 2;
413, § 8.
1907, 550, § 13.

No chimney shall be hung from a wall which is less than twelve inches thick.

No masonry shall rest upon wood, except piles and mud sills.

No part of any floor timber shall be within two inches of any chimney.

No studding or furring shall be within one inch of any chimney.

No furnace or boiler for heating shall be placed upon a wooden floor.

No smoke pipe shall project through any external wall or window.

No steam, furnace, or other hot air pipes, shall be carried within one inch of any woodwork, unless such pipes are double or otherwise protected by incombustible material.

No observation stand shall be constructed or maintained except in accordance with plans approved by the commissioner.

No closet of any kind shall be constructed under any staircase leading from the cellar or basement to the first story.

No boiler shall be placed or maintained under any public way.

No part of any structure, except cornices, permanent awnings, string courses, window caps and sills, bay windows, under such terms, conditions, regulations and restrictions as may be required by the mayor and board of aldermen, and outside means of egress, as otherwise provided, and signs as provided in section twenty-nine of chapter fifty-one of this consolidation, shall project over any public way or square. No cornice or bay window shall so project more than three feet; nor more than twelve inches over a way of a width of thirty feet or less.

No building within forty feet of the property of any adjoining owner shall be erected for or converted to use as a stable, unless such use is authorized by the board of health after a public hearing. Written notice of such hearing shall be given to the adjoining owners, and published at least three times in at least two newspapers published in Boston, ten days at least before the hearing.

MATERIALS.

SECT. 14. The stresses in materials hereafter used in the construction of all buildings, produced by their own weight and the loads herein specified, shall not exceed the limits assigned in the following paragraphs of this section :

Stresses in
materials.
1892, 419, § 19.
1906, 340, § 1.
1907, 550, § 14.

(a) TIMBER.

Unit Stresses in Pounds per Square Inch.

	On Extreme Fibre of Beams.	Shearing along the Grain.	Compression Perpendicular to the Grain.
White pine and spruce.....	1,000	80	250
White oak	1,000	150	600
Yellow pine (long-leaved).....	1,500	100	500

Stresses due to transverse loads combined with direct tension or compression shall not exceed the extreme fibre stresses given above.

In computing deflection, the modulus of elasticity shall be taken as follows:

	Pounds per Square Inch.
White pine	750,000
Spruce	900,000
Yellow pine (long-leaved), ...	1,300,000
White oak	850,000

Columns (centrally loaded).

For wooden columns with flat ends, where L is the length of the column, D is its least diameter, the average stress per square inch on a cross-section shall be limited as follows:

$\frac{L}{D}$	AVERAGE STRESS PER SQUARE INCH.		
	White Pine and Spruce.	Long-leaved Yellow Pine.	White Oak.
0 to 10.....	630	900	810
10 to 15.....	595	850	765
15 to 20.....	560	800	720
20 to 25.....	525	750	675
25 to 30.....	490	700	630

No column shall be used with a greater unsupported length than thirty times its least diameter.

For excentric loads see section sixteen.

(b) WROUGHT IRON AND STEEL.

Unit Stresses in Pounds per Square Inch.

	Wrought Iron. ¹	Steel. ¹
Extreme fibre of rolled beams or shapes.....	12,000	16,000
Tension.....	12,000	16,000
Compression in flanges of built beams.....	12,000	16,000
Shearing (see below for bolts).....	9,000	10,000
Direct bearing, including pins and rivets.....	15,000	18,000
Bending on pins.....	18,000	22,500
Modulus of elasticity.....	27,000,000	29,000,000

¹ These stresses (except for rivets) are for steel having an ultimate tensile strength of from fifty-five thousand to sixty-five thousand pounds per square inch, an elastic limit of not less than one-half the ultimate strength, and a minimum percentage of elongation in eight inches of one million four hundred thousand, divided by the ultimate strength.

For compression members twelve thousand for iron and sixteen thousand for steel, reduced according to the following formula :

$$\frac{12,000 \text{ (or 16,000 for steel)}}{1 + \frac{1}{20,000} \frac{L^2}{r^2}}$$

in which L is the length of the column in inches, and r is the radius of gyration in inches taken around the axis about which the column will bend (for free columns, the least radius of gyration).

The stresses due to transverse loads combined with direct tension or compression shall not exceed the extreme fibre stress given above for rolled beams and shapes, or in case of built members the above tension and compression stresses (see section sixteen).

Compression flanges of beams shall be proportioned to resist lateral flexure unless properly stayed or secured against it. If the ratio of unsupported length of flange to width of flange does not exceed twenty, no allowance need be made for lateral flexure. If the ratio is seventy, the allowable stress on the extreme fibre shall be one half of that above specified, and proportionally for intermediate ratios.

Shearing and bearing stresses on bolts shall not be higher than eighty per cent. of those allowed by the above table. All connections in skeleton buildings, all splices in steel trusses and girders, and all connections of such trusses and girders to the sides of steel columns shall, if possible, be made by means of rivets rather than by bolts.

(c) CAST IRON.

Unit Stresses in Pounds per Square Inch.

Extreme fibre stress, tension,	.	.	.	.	.	.	3,000
Extreme fibre stress, compression,	.	.	.	.	.	.	16,000

Cast iron shall not be used for columns in buildings of more than seventy-five feet in height, nor in cases where the value of the length divided by least radius of gyration exceeds seventy.

Cast Iron Columns (centrally loaded and unsupported laterally).

Where the Length divided by the Least Radius of Gyration equals—	Average Stress per Square Inch of Section.	Where the Length divided by the Least Radius of Gyration equals—	Average Stress per Square Inch of Section.
10	11,000	50	9,800
20	10,700	60	9,500
30	10,400	70	9,200
40	10,100		

(d) STONE WORK, IN COMPRESSION.

Stresses in Tons of Two Thousand Pounds per Square Foot.

First quality dressed beds and builds laid solid in mortar of one part Portland cement to three parts sand, or one part natural cement to two parts sand.

Granite	60
Marble and limestone	40
Sandstone	30

In cases where poor mortar is used, to avoid stain from cement, stresses shall be less than above, and must be approved by the building commissioner.

(e) BRICKWORK IN COMPRESSION.

Stresses in Tons of Two Thousand Pounds per Square Foot.

(1.) For first class work of hard-burned bricks, including piers in which the height does not exceed six times the least dimension, laid in:

(a) One part Portland cement, three parts sand, by volume, dry	20
(b) One part natural cement, two parts sand, by volume, dry	18
(c) One part natural cement, one part lime and six parts sand, by volume, dry	12
(d) Lime mortar, one part lime, six parts sand, by volume, dry	8

(2.) For brick piers of hard-burned bricks, in which the height is from six to twelve times the least dimension:

Mortar (a)	18
Mortar (b)	15
Mortar (c)	10
Mortar (d)	7

(3.) For brickwork made of "light-hard" bricks, the stresses shall not exceed two-thirds of the stresses for light work of hard-burned bricks.

(f) CONCRETE.

When the structural use of concrete is proposed, a specification, stating the quality and proportions of materials, and the methods of mixing the same, shall be submitted to the building commissioner, who may issue a permit at his discretion and under such further conditions, in addition to those stated below, as he sees fit to impose.

A. In first class Portland cement concrete, containing one part cement to not more than six parts mixed properly graded aggregate, except in piers or columns of which the height exceeds six times the least dimension, the compressive stress shall not exceed thirty tons of two thousand pounds per square foot.

B. In piers and columns of first class Portland cement concrete, containing one part cement to not more than five parts mixed properly graded aggregate, where the height of the pier or column is more than six times and does not exceed twelve times its least dimension, the compressive stress shall not exceed twenty-five tons of two thousand pounds per square foot.

By "aggregate" shall be understood all the materials in the concrete except the cement. Cinders concrete shall be used constructively only for floors, roofs, and for filling.

Rules for the computation of reinforced concrete columns may be formulated from time to time by the building commissioner with the approval of the board of appeal.

In reinforced concrete beams or slabs subjected to bending stresses, the entire tensile stress shall be assumed to be carried by the steel, which shall not be stressed above the limits allowed for this material. First class Portland cement concrete in such beams or slabs, containing one part cement to not more than five parts mixed properly graded aggregate, may be stressed in compression to not more than five hundred pounds per square inch. In case a richer concrete is used, this stress may be increased with the approval of the commissioner to not more than six hundred pounds per square inch.

In reinforced concrete the maximum shearing force upon the concrete, when uncombined with compression upon the same plane shall not exceed sixty pounds per square inch, unless the building commissioner with the consent of the board of appeal shall fix some other value.

If the imbedded steel has no mechanical bond with the concrete, its holding power shall not exceed the allowable shearing strength of the concrete.

(g) IN GENERAL.

Under the prescribed loads, beams shall be so proportioned that the deflection shall not exceed one three hundred and sixtieth ($\frac{1}{360}$) of the span.

Stresses for materials and forms of material, not herein mentioned, shall be determined by the building commissioner. Provision for wind bracing shall be made wherever it is necessary, and all buildings shall be constructed of sufficient strength to bear with safety the load intended to be placed thereon, in addition to the weight of the materials used in construction.

No cutting for piping or any other purpose shall be done which would reduce the strength of any part of the structure below what is required by the provisions of this chapter.

Quality of
materials.
1892, 419, § 19.
1906, 340, § 1.
1907, 550, § 1.

SECT. 15. All materials shall be of such quality for the purposes for which they are to be used as to insure, in the judgment of the building commissioner, ample safety and security to life, limb and neighboring property. The building commissioner shall have power to reject all materials which in his opinion are unsuitable, and may require tests to be made by the architect, engineer, builder or owner to determine the strength of the structural materials before or after they are incorporated in a building, and may require certified copies of results of tests made elsewhere from the architect, engineer, builder, owner or other interested persons.

Hollow cast-iron columns, if used, shall be shown by measurements and tests satisfactory to the commissioner to be of practically uniform thickness, and free from blow holes.

MORTARS.

All mortars shall be made with such proportion of sand as will insure a proper degree of cohesion and tenacity, and secure thorough adhesion to the material with which they are used, and the building commissioner shall condemn all mortars not so made.

(a.) Mortar below the level of water shall be no poorer than one part Portland cement and three parts sand.

(b.) Mortar for first class buildings shall, for the lower half of their height, be no poorer than one part natural cement to two parts sand; and, for the upper half, no poorer than one part of natural cement, one half part of lime, and three parts of sand.

(c.) Mortar for second class buildings, and for such parts of third class buildings as are below the level of the sidewalk, shall be no poorer than one part of natural cement, one of lime, and four of sand.

(d.) Mortar for third class buildings, above ground, shall be no poorer than one part lime and four parts sand.

The building commissioner may allow lime mortar in setting stone where cement will stain.

CONCRETE.

Concrete shall be used immediately after mixing; it shall not be placed in the work after it has begun to harden; and it shall be deposited in such manner and under such regulations as to secure a compact mass of the best quality for the proportions used. Forms shall remain until the concrete has hardened so as to be able to carry its load safely, and shall be removed without jar.

The commissioner may require an applicant for a permit for the structural use of concrete to have an inspector satisfactory to the commissioner at all times on the work while concrete is being mixed or deposited, and such inspector shall make daily reports to the commissioner on the progress of the work.

CEMENT.

Cement shall conform to the specifications of the American Association for Testing Materials, as modified from time to time by that association.

REINFORCED CONCRETE.

Reinforced concrete slabs, beams or girders, if rendered continuous over supports by being unbroken in section, shall be provided with proper metal reinforcement at the top over said supports and may be computed as continuous beams, as hereinafter described.

The modulus of elasticity of the concrete, if not shown by direct tests, may for beams and slabs be taken as one fifteenth that of steel, and for columns one tenth that of steel.

The reinforcing metal shall be covered by not less than three fourths inch of concrete in slabs, and by not less than one and one half inches of concrete in beams and columns.

SECT. 16. Beams or girders of metal or reinforced concrete shall be considered as simply supported at their ends, except when they extend with unbroken cross-section over the supports, in which case they may be considered as continuous.

Methods of
computation.
1907, 550, § 16.

The span of a beam shall be considered as the distance from centre to centre of the bed plates or surfaces upon which it rests. If it is fastened to the side of a column, the span shall be measured to the centre of the column.

In slabs, beams or girders continuous over supports, provision shall be made for a negative bending moment at such supports equal to four-fifths of the positive bending moment that would exist at the centre of the span if the piece were simply supported; and the positive bending moment at the centre of the span may be taken equal to the negative bending moment at the support.

In the case of a slab of reinforced concrete with parallel ribs or girders beneath, the rib or girder may be considered to include a portion of the slab between the ribs, forming a T-beam. The width of the T-beam on top shall not exceed one-third the span of the rib nor the distance from centre to centre of the ribs.

Reinforced concrete columns shall be proportioned on the assumption that the concrete and the steel are shortened in length in the same proportion. The steel members shall be tied together at intervals sufficiently short to prevent buckling.

If a column is loaded eccentrically or transversely, the maximum fibre stress, taking account of the direct compression, the bending which it causes, its eccentricity and the transverse load, shall not exceed the maximum allowable stress in compression.

If a tension piece is loaded eccentrically or transversely, the maximum fibre stress, taking account of the direct tension, its eccentricity and the transverse load, shall not exceed the maximum allowable stress in tension.

An excentric load upon a column shall be considered to affect excentrically only the length of column extending to the next point below at which the column is held securely in the direction of the excentricity.

If a piece is exposed to tension and compression at different times, it shall be proportioned to resist the maximum of each kind, but the unit stresses shall be less than those used for stress of one kind, depending upon the ratio and the relative frequency of the two maxima.

Net sections shall be used in proportioning steel tension members, and in deducting rivet holes they shall be taken as one-eighth of an inch greater in diameter than the rivets.

The length of a steel compression member between supports in any direction shall not exceed one hundred and twenty times its radius of gyration about an axis perpendicular to that direction.

The webs of plate girders shall be proportioned to resist buckling in cases where they are not supported laterally, according to the formula :

$$\frac{15,000}{1 \frac{1}{3,000} \frac{d^2}{t^2}}$$

in which t = thickness of web, in inches; d = clear, unsupported dimension horizontally or vertically, whichever is the lesser.

In proportioning the flanges of plate girders, one-eighth of the gross area of the web may be considered as available in each flange. If the length of the top flange unsupported laterally exceeds twenty times its width, the allowable stress shall be reduced, as in the case of rolled beams.

Pins shall be computed by assuming the forces in the bars to act at the centre of the bearing areas.

In riveted trusses the centre of gravity lines of members coming together at a joint shall, if possible, intersect at a point. Excentricity due to a non-fulfilment of this rule shall be allowed for in the computations. The centre of gravity of the rivets connecting one piece to another shall, in general, lie as nearly as practicable in the centre of gravity line of the piece.

CLASSIFICATION.

First and Second Class Buildings.

Construction of first and second class buildings.
1872, 371, § 11.
1892, 419, §§ 23, 24, 106.
1894, 443, §§ 8, 24.
1897, 413, § 3.
1898, 308.
1904, 368.
1906, 340, §§ 3, 4.
1907, 550, § 17.
188 Mass. 573.

SECT. 17. Every building over seventy-five feet in height hereafter erected or raised and every house adapted for habitation more than five stories in height and exceeding sixty-five feet above the basement or covering more than five thousand superficial square feet on the ground floor, regardless of height, shall be constructed as a first class building; and all other houses may, except as herein otherwise provided, be of second or third class construction.

New buildings adapted for habitations, and not more than five stories above the cellar or basement, may be erected of second class construction, but no such building shall exceed five thousand square feet in superficial area or sixty-five feet in height. The first story or basement, or both the first story and basement, in such buildings, so constructed, altered, remodelled or enlarged, may be used for mercantile purposes, *provided*, that the walls and ceilings surrounding the areas so used shall be fire-stopped to the satisfaction of the commissioner.

New buildings, of concrete, concrete blocks or brick, not over three stories in height, adapted for the occupancy of a single family and having a superficial area of not more than twelve hundred square feet, may be constructed with external and party or division walls of eight inches in thickness: *provided, however*, that where the party wall of a building thus constructed joins or becomes the party wall of another such building, the floor timbers in each of such buildings shall be so spaced or protected that their ends shall not approach nearer than within eight inches of each other.

Restriction of Areas.

Any first class building used above the first floor as a warehouse or store for the storage or sale of merchandise shall have all vertical openings protected by fireproof enclosures. Such enclosures shall, if enclosing stairs or escalators, have automatic doors, and all glass in said enclosure shall be wire glass.

Such buildings shall be so divided by brick walls built like party walls with the same openings allowed, that no space inside such buildings shall exceed in area ten thousand square feet, except that when any such building has a frontage of not less than fifty feet on each of two streets, such space may exceed ten thousand square feet in area, *provided*, that buildings in which such extension of area beyond ten thousand square feet is permitted shall have automatic fire sprinklers installed, and means of ingress and egress satisfactory to the commissioner and the board of appeal.

Second class buildings used above the first floor as warehouses or stores for the storage or sale of merchandise shall so be divided by brick walls, built like party walls with the same openings allowed, that no space inside such buildings shall exceed in area ten thousand square feet, and no existing wall in any second class building shall be removed so as to leave an area of more than ten thousand square feet, nor shall any existing wall, separating areas which combined would exceed ten thousand square feet in area, have openings cut in it greater in area or number than is allowed by this chapter for party walls.

Every second class building more than three stories high and used above the first floor as a warehouse or store for the storage or sale of merchandise shall have all vertical openings for elevators and stairways, air or light shafts, through its floors

protected by fireproof enclosures. Such enclosures shall be supported on fireproof supports and framing, and shall, if enclosing stairs or escalators, have automatic doors, and all glass in said enclosures shall be wire glass.

No building used above the first floor for the storage or sale of merchandise shall have less than two means of egress from every story, one of which means may be either an outside fire-escape or through a brick wall closed by automatic doors into a building of the same class; except that an independent monumental stairway extending from the basement to the second floor may be constructed.

Buildings for Manufacturing Purposes.

Buildings outside the building limits and adapted exclusively for manufacturing, storage, mechanical or stable purposes, may be built under such conditions as the commissioner shall prescribe. If of wood, such buildings shall not exceed forty-five feet in height.

Height of
buildings.
1873, 298, § 9.
1885, 374, § 50.
1892, 419, § 25.
1894, 443, § 9.
1907, 550, § 18.
188 Mass. 457.
198 Mass. 364.

SECT. 18. No building, structure or part thereof shall be of a height exceeding two and one-half times the width of the widest street on which the building or structure stands, whether such street is a public street or place or a private way, nor exceeding one hundred and twenty-five feet in any case. The width of such street, place or private way shall be measured from the face of the building or structure to the line of the street on the other side. If the street is of uneven width, the width shall be the average width of the part of the street opposite the building or structure; if the effective width of the street is increased by an area or set-back, the space between the face of the main building and the lawfully established line of the street may be built upon to the height of two and one-half times the width of the street.

All buildings or structures hereafter erected in any part of the city shall be subject to the restrictions imposed by chapter four hundred and fifty-two of the acts of the year eighteen hundred and ninety-eight, by chapter five hundred and forty-three of the acts of the year nineteen hundred and two, by chapter three hundred and eighty-three of the acts of the year nineteen hundred and five, and by chapter four hundred and sixteen of the acts of the year nineteen hundred and seven, so far as the restrictions imposed by said acts relate to the districts described therein; and shall also be subject to any restrictions lawfully imposed by the park commissioners of said city.

Excavations.
1885, 374, § 31.
1892, 419, § 32.
1907, 550, § 19.

SECT. 19. All excavations shall so be protected, by sheet piling if necessary, by the persons causing the same to be made, that the adjoining soil shall not cave in by reason of its own weight. It shall be the duty of the owner of every building to furnish, or cause to be furnished, such support that his building shall not be endangered by any excavation: *provided*, that the owner of any building which is endangered by an excavation

carried by an adjoining owner more than ten feet below the grade of the street may recover the expense so caused of supporting such building from the persons causing such excavation to be made. All permanent excavations shall be protected by retaining walls. In case of any failure to comply with the provisions of this section the commissioner may enter upon the premises and may furnish such support as the circumstances may require. Any expense so incurred may be recovered by the city from the persons required by law to furnish the support.

SECT. 20. All buildings shall, if the commissioner determines that piling is necessary, be constructed on foundation piles which, if of wood, shall be not more than three feet apart on centres in the direction of the wall, and the number, diameter and bearing of such piles shall be sufficient to support the superstructure proposed. The commissioner shall determine the grade at which the piles shall be cut. The commissioner may require any applicant for a permit to ascertain by boring the nature of the ground on which he proposes to build, and he may require an inspector satisfactory to the commissioner to be at all times on the work while piles are being driven, who shall keep an accurate record of the length of each pile, the weight and fall of the hammer, and the penetration of each pile for each of the last two blows of the hammer.

Plain concrete piles shall be made in place by methods which are reasonably certain to secure perfect, full sized piles. Reinforced concrete piles if properly designed to resist the shock of driving, and if driven with a cushion to lessen the shock or by a water jet, may be moulded, allowed to harden, and then driven in place.

In case concrete piles are used, whether reinforced or not, their bearing power shall be determined by putting in one or more test piles and loading them after the concrete has hardened. The load allowed shall not be more than one-half the load under which the pile begins to settle. In no case, however, shall the load on a concrete pile exceed that specified herein for concrete in columns. Concrete for piles shall have not more than five parts of properly made and mixed aggregate to one part of Portland cement; and the aggregate shall all be capable of passing through a one inch ring.

All wood piles shall be capped with block granite levellers, each leveller having a firm bearing on the pile or piles which it covers, or with first class Portland cement concrete, not less than sixteen inches thick, above the pile caps, containing one part of cement to not more than six parts of properly graded aggregate of stone and sand, the concrete to be filled in around the pile heads upon the intervening earth.

SECT. 21. Foundations of first and second class buildings may be of brick, stone or concrete. The thickness shall be as stated in section twenty-three. Foundations of rubble stone

Piling.
1871, 280, § 24.
1886, 374, §§ 33,
35, 36.
1892, 419, § 27.
1894, 443, § 27.
1907, 550, § 20.

Foundations
of first and
second class
buildings.
1871, 280, § 21.
1876, 176, § 2.

1892, 419, §§ 28,
30.
1894, 443, § 11.
1907, 550, § 21.

shall be allowed only under buildings less than forty-five feet in height and for a depth of less than ten feet.

The walls and piers of every building shall have a foundation, the bearing of which shall be not less than four feet below any adjoining surface exposed to the frost, and such foundation, with the superstructure which it supports, shall not overload the material on which it rests.

Cellars.
1872, 377, § 1.
1885, 374, § 96.
1892, 419, § 81.
1894, 443, § 18.
1900, 271.
1907, 550, § 22.

SECT. 22. The cellar of every building, where the grade or nature of the ground so requires, shall be sufficiently protected from water and damp by a bed at least two inches thick over the whole, of concrete, cement and gravel, tar and gravel, or asphalt, or by bricks laid in cement. No cellar or basement floor of any building shall be constructed below the grade of twelve feet above mean low water, unless such cellar is made waterproof to the satisfaction of the commissioner. All metal foundations and all constructional metal work underground shall be protected from dampness by concrete, or by other material approved by the commissioner.

Thickness of
walls.
1871, 280, §§ 21,
22.
1872, 260, §§ 2,
3; 371, §§ 1, 5.
1876, 178, § 1.
1883, 155.
1885, 374, §§ 44,
46, 48, 51, 52.
1892, 419, §§ 36,
37, 39.
1896, 416.
1898, 209.
1907, 550, § 23.

SECT. 23. Except as provided in section seventeen, the external walls above the foundation of houses for habitation of first or second class construction, and not exceeding sixteen hundred square feet in area and not over three stories high, shall be not less than eight inches thick for external walls and not less than twelve inches thick for party walls. In case any part of such building is adapted for any use other than habitation, all walls shall be not less than twelve inches thick. All other houses for habitation, not exceeding five thousand feet in superficial area and not exceeding five stories or sixty-five feet in height, above the basement, shall have all walls not less than twelve inches thick.

The external and party walls of every building of the first or second class, except houses for habitation, less than sixty-five feet in height shall be twelve inches thick in the upper two stories not exceeding twenty-five feet in height. In the section of two stories, but not exceeding twenty-five feet next below, the walls shall be sixteen inches thick. In the next lower section of three stories, but not exceeding thirty-seven feet, the walls shall be twenty inches thick, and in each succeeding section of three stories, but not exceeding thirty-seven feet or any part thereof, the walls shall be four inches thicker than the section next above it. The foundation walls shall be at least four inches thicker than the required thickness of the walls of the first story. The thickness herein given shall apply to all masonry walls unless they are reinforced by a frame or skeleton of steel.

In reckoning the thickness of walls, ashlar shall not be included unless the walls are at least sixteen inches thick and the ashlar is at least eight inches thick, or unless alternate courses are at least four and eight inches to allow bonding with the backing. Ashlar shall be properly held by metal clamps to the backing or properly bonded to the same.

SECT. 24. All walls of a first or second class building meeting at an angle shall be securely bonded, or shall be united every five feet of their height by anchors made of at least two inches by half an inch of steel or wrought iron, well painted, and securely built into the side or partition walls not less than thirty-six inches, and into the front and rear walls at least one-half the thickness of such walls.

Anchors.
1871, 280, § 80.
1872, 271, § 10.
1885, 274, § 61.
1892, 419, § 47.
1907, 550, § 24.

SECT. 25. Every eighth course, at least, of a brick wall shall be a full heading or bonding course, except where walls are faced with face brick, in which case, in every eighth course, at least every other brick shall be a full header. No diagonal header ties shall be used.

Brickwork bonding.
1872, 271, § 5.
1873, 298, § 2.
1885, 274, § 41.
1892, 419, § 35.
1907, 550, § 25.

SECT. 26. If the air spaces are headed over and the walls are built solid for at least three courses below the floor and roof beams, walls, if of brick, may be built hollow. They shall contain, exclusive of withes, the same amount of material as is required for solid walls, and the masonry on the inside of the air space in walls over two stories in height shall be not less than eight inches thick, and the parts on either side shall be securely tied together with ties not more than two feet apart in each direction.

Vaulted walls.
1872, 271, § 14.
1885, 274, § 39.
1892, 419, § 38.
1894, 443, § 14.
1907, 550, § 26.

SECT. 27. Walls may be built in part of iron or steel or with a reinforced concrete or metal framework. In such metal framework, the beams and girders shall be riveted to each other at their respective junction points. If columns made of rolled iron or steel are used, their different parts shall be riveted to each other, and the beams and girders resting upon them shall, if possible, have riveted connections to unite them with the columns. If cast iron columns are used, each successive column shall be bolted to the one below it by at least four bolts not less than three-fourths of an inch in diameter, and the beams and girders shall be bolted to the columns. At each line of floor or roof beams, lateral connections between the ends of the beams and girders shall be made in such manner as rigidly to connect the beams and girders with each other in the direction of their length.

Iron or steel external walls.
1892, 419, § 40.
1907, 550, § 27.

All party walls of skeleton construction shall have curtain walls of brick, not less than twelve inches thick.

All outside walls of skeleton construction shall have curtain walls which may be of masonry, terra-cotta, concrete, or reinforced concrete, constructed and supported under such conditions as the commissioner shall prescribe.

If the metal or other framework is so designed that the enclosing walls do not carry the weight of floors or roof, then the walls shall be of masonry or concrete construction and shall be thoroughly anchored to the iron skeleton, and whenever the weight of such walls rests upon beams or columns, such beams or columns shall be made strong enough in each story to carry the weight of wall resting upon them without reliance upon the walls below them.

Party Walls Above Roof.

Party walls
above roof.
1872, 371, § 11.
1885, 374, § 42.
1892, 419, § 42.
1893, 464, § 8.
1897, 413, § 4.
1907, 550, § 28.

Walls and
cornices.
1871, 280, § 29.
1885, 374, § 40.
1892, 419, § 54.
1907, 550, § 29.

Piers and
hearths.
1871, 280, § 31.
1885, 374, §§ 68,
75.
1892, 419, §§ 50,
70.
1907, 550, § 30.

Openings and
doorways in
party walls.
1871, 280, § 25.
1885, 374, § 63.
1892, 419, § 48.
1904, 368.
1907, 550, § 31.

Fire pro-
tection.
1885, 374, § 80.
1892, 419, § 41.
1894, 443, §§ 16,
18.
1907, 550, § 32.

SECT. 28. In buildings less than forty-five feet in height, all party walls shall be built to a height at least twelve inches above the roof covering, and shall be capped with stone, cement or metal securely fastened to the masonry. In all other buildings, such walls shall be carried thirty inches above the roof.

SECT. 29. Where a wall is finished with a stone cornice, the greatest weight of material of such cornice shall be on the inside of the face of the wall. All cornices of second class buildings shall be of brick or covered with fireproof material, and the walls shall be carried up to the boarding of the roof; and, where the cornice projects above the roof, the masonry shall be carried up to the top of the cornice and covered with metal, like parapet walls.

SECT. 30. Piers and walls shall have caps or plates, where they are needed, sufficient properly to distribute the load.

Hearths shall be supported by trimmer arches of brick or stone; or shall be of single stones at least six inches thick, built into the chimney and supported by iron beams, one end of which shall be securely built into the masonry of a chimney or of an adjoining wall, or which shall otherwise rest upon an incombustible support. Brick jambs of every fireplace, range or grate opening shall be at least eight inches wide each. Hearths and trimmer arches shall be at least twelve inches longer on either side than the width of such openings, and at least eighteen inches wide in front of the chimney breast. Brickwork over fireplaces and grate openings shall be supported by proper iron bars, or brick or stone arches.

SECT. 31. Openings for doorways in party walls shall not exceed one hundred square feet each in area, and each opening shall have two sets of fire doors separated by the thickness of the wall, hung in a manner satisfactory to the commissioner, except that the aggregate width of all openings in any story shall not exceed fifty per cent. of the length of the wall in which such openings occur. Openings, not exceeding one hundred and forty-four square inches, constructed and protected as shall be approved by a writing signed by the fire commissioner, and filed with the commissioner, may be permitted in any wall or floor.

SECT. 32. All structural metal supporting or forming part of the frame, floors, roof or columns of any building, except as otherwise exempted in this chapter, shall be protected against the effect of heat.

This protection shall consist of concrete, or of porous terra-cotta or brick set in cement mortar. When block construction is used, it shall be clamped in place with steel clamps, or wrapped securely with number twelve galvanized iron wire or metal lathing in such manner as to hold each block in place, and shall be plastered with lime or other mortar at least three fourths of an inch thick in addition to the protection.

The protection on all floor and roof beams shall be at least one inch thick, on all floor and roof girders, and on all beams carrying masonry, at least one inch thick on top and two inches thick elsewhere, on all columns carrying only floors, three inches, and on all columns built into or carrying walls, four inches.

If terra-cotta blocks are used for protection, such blocks may be hollow, but each face shall be solid, and no flange shall be less than one inch thick.

Plaster on wire or metal lath shall not be considered as a fire protection for steel or iron structural members, but may be used with an air space under arches as a suspended ceiling, provided that such arches have at least one inch of thickness of fireproofing under the flanges in addition to such ceiling, and that the metal lath and plaster are suspended separately from the arches and are not less than one inch below the same.

All protection shall be applied directly to the metal work and shall not be broken into nor interrupted by any pipes, wires, chases, or conduits of any kind.

About isolated columns on the exterior of buildings, the thickness of protection may be reduced to one inch, when the same is covered with an outer shell of cast iron or steel.

When a column or girder is formed of built up shapes, the spaces between flanges shall be filled solid with protecting material, but this protection need not extend more than one inch beyond the edges of projecting angles, bars or channels. The protection shall cover all lugs, brackets, braces, etc.

The metal work of all trusses carrying masonry or floor loads shall be protected, as hereinbefore described, but said provisions shall not apply to trusses which carry roof load only.

When a wall or partition is formed with a framework of angles, channels or other built-up shapes, and such wall or partition is filled in flush with both faces of the frame with terra-cotta blocks, additional protection may be omitted.

The above requirements as to fireproofing shall not apply to iron or steel in second or third class buildings in any case in which the use of wood without fire protection would be permissible under this chapter.

In work in connection with alterations of existing buildings, the character and amount of protection for steel and ironwork shall be made satisfactory to the commissioner.

In positions where the protection of isolated or exposed columns is likely to be broken or damaged by trucks or merchandise, there shall be outside of the protection a guard at least five feet high of iron or wood, bound with wire or steel so as to be self-supporting.

Spaces between and behind all studding or furring shall be filled solid with bricks and mortar or other fireproof material for a space of five inches in height above the floor beams or plaster grounds. Spaces between the strap furring on brick walls shall be filled with solid mortar for five inches below the bottom of

the floor beams. The spaces between stringers of stairs and joists of landings, unless unceiled or of fireproof construction, shall be stopped solid with wood, brick or terra-cotta or other approved material as often as twice in each flight of stairs. The spaces between floor beams on bearing partitions shall be stopped in a similar manner.

In every building of second or third class construction, each floor shall be thoroughly stopped by a continuous layer of asbestos fabric, magnesio calcite or other fire-resisting material approved by the commissioner.

The tops of all heating furnaces and smoke pipes shall be at least one foot below the nearest wooden beams or ceiling. All ceilings immediately over a furnace or boiler, and for six feet on each side thereof, and all ceilings over indirect radiators shall, except under fireproof floors, be metal lathed and plastered.

All hot-air register boxes in the floors or partitions of buildings shall be set in soapstone or equally fireproof borders not less than two inches in width, shall be made of tin plate, and shall have double pipes and boxes properly fitted to the soapstone. Hot-air pipes and register boxes shall be at least one inch from any woodwork, and register boxes shall be fifteen inches by twenty-five inches, or larger, and their connecting pipes shall be two inches from any woodwork. If indirect hot water or indirect steam heat is used, the commissioner may modify or dispense with the foregoing requirements.

Fireproof partitions.
1907, 550, § 33.

SECT. 33. Partitions in buildings of first class construction shall be constructed of plastering applied to metal lathing, or to plaster boards, or to hollow blocks composed of cement, plaster or terra-cotta. When block construction is used, it shall be self-supporting above all openings, thoroughly bonded and set in Portland cement. The blocks shall start from the floor and shall be continuous to the floor above, except that in the upper story, where there is a space between the ceiling of the top story and the roof, these partitions need not extend above the ceiling. If plastered on both sides, the blocks shall be not less than four inches thick up to a height of fifteen feet, and shall be increased one inch for every additional eight feet or fraction thereof. The thickness of webs shall be not less than three fourths of an inch. If partitions are not plastered on both sides, the thickness of blocks shall be one inch greater than as specified above.

Timbers in walls of second class buildings.
1892, 419, § 58.
1897, 413, § 5.
1907, 550, § 34.

SECT. 34. The ends of all wooden floor or roof beams in second class buildings shall enter the wall to a depth of at least four inches. When the wall is eight inches thick it shall be corbelled or the beams shall be hung in metal hangers; and the ends of all such beams shall so be shaped or arranged that in case of fire they may fall without injury to the wall.

Alteration of existing buildings.
1906, 340, § 2.
1907, 550, § 35.

SECT. 35. Any building, except those of third class construction within the building limits, having not more than five floors above the mean grade of all the sidewalks, may be altered, remodelled or enlarged for use as a house for habitation using second class construction.

The first story or basement, or both the first story and basement, in such buildings may be used for mercantile purposes, provided that the walls and ceilings surrounding the area so used shall be fire-stopped to the satisfaction of the commissioner.

The height of any such building shall not be increased unless the walls and foundations conform to the provisions of this chapter. The number of stories of such a building shall not exceed five above the cellar or basement.

Every such building, more than thirty-three feet in height, so altered, remodelled or enlarged, shall be provided with at least two independent exits satisfactory to the commissioner.

Every such building, so altered, remodelled or enlarged, shall have, in addition to the exposure on the widest street, an exposure as long as the average width of the building, upon a space open from the ground to the sky, at least ten feet wide for the first three stories, and increasing in width five feet for the next two stories. If the proposed building is more than five stories in height, said space shall be twenty feet: *provided*, that if the basement and first story are adapted or enlarged for use for mercantile purposes, the exposure required by this section shall not apply to that part of the building; and *provided, also*, that sufficient space be retained on the lot for the storage of ashes and garbage.

Such exposure may be either upon private or public ways, or upon land which is dedicated for the use of the building, and may be divided and placed as approved by the building commissioner.

These spaces shall remain undiminished so long as the building is used for habitation.

If the building is situated on the corner of streets or private ways not less than ten feet wide, the commissioner may approve the omission of the whole or part of this additional exposure.

If, in the opinion of the commissioner, the alteration proposed to be made in a building is of such extent as, when done, to produce a practically new structure or to impair the stability or increase the fire risk of the structure as a whole, then the whole structure shall be made to conform to the provisions of this chapter for a new structure of the same class. A building damaged by fire or other casualty may be repaired or restored so as to conform to its original condition, or may be reconstructed in some or all of its parts, so as to conform to the requirements of this chapter for new buildings, as the commissioner may specify in his permit.

Every living room in a building adapted for habitation shall have a window on the open air of an area not less than ten square feet and distant in a three story building not less than six feet from any opposite wall; distant in a four story building not less than eight feet from any opposite wall; distant in a five story building not less than ten feet from any opposite wall. This shall not apply to the construction of third class

buildings, except the provision for a window on the open air of an area.

The exposure required under this section shall apply to all buildings hereafter constructed adapted for habitation, except as is otherwise provided for tenement houses.

Floors and
loads.
1885, 374, § 86.
1892, 419, § 53.
1895, 280.
1907, 550, § 38.

SECT. 36. All new or renewed floors and stairs shall be so constructed as to carry safely the weight to which the proposed use of the building may subject them, and every permit granted shall state for what purpose the building is designed to be used; but the least capacity per superficial square foot, exclusive of materials shall be:

For floors of houses for habitation, fifty pounds.

For office floors and for public rooms of hotels and houses exceeding five hundred square feet, one hundred pounds.

For floors of retail stores and public buildings, except school-houses, or for light manufacturing, one hundred and twenty-five pounds.

For floors of school-houses, other than floors of assembly rooms, sixty pounds, and for floors of assembly rooms, one hundred and twenty-five pounds.

For floors of drill rooms, dance halls and riding schools, two hundred pounds.

For floors of warehouses and mercantile buildings, at least two hundred and fifty pounds.

For flat roofs, forty pounds.

For stairs, landings, platforms and fire-escapes, seventy pounds.

The loads not included in this classification shall be determined by the commissioner.

The full floor load specified in this section shall be included in proportioning all parts of buildings designed for warehouses, or for heavy mercantile and manufacturing purposes. In other buildings, however, reductions may be allowed, as follows: For girders carrying more than one hundred square feet of floor, the live load may be reduced ten per cent. For columns, piers, walls and other parts carrying two floors, a reduction of fifteen per cent. of the total live load may be made; where three floors are carried, the total live load may be reduced by twenty per cent.; four floors, twenty-five per cent.; five floors, thirty per cent.; six floors, thirty-five per cent.; seven floors, forty per cent.; eight floors, forty-five per cent.; nine or more floors, fifty per cent.

The commissioner may prescribe the maximum loads, which may be imposed upon the floors of existing buildings.

Shutters.
1972, 371, § 12.
1885, 374, § 96.
1892, 419, § 76.
1937, 550, § 87.

SECT. 37. In all first or second class mercantile or manufacturing buildings over thirty feet in height, outside openings in party walls, or in any rear or side wall within twenty feet of an opposite wall or building, shall have metal frames and sashes and shall be glazed with wire glass or shall be protected by shutters. Such shutters shall be covered on both sides with tin or shall be made of other substantial fireproof material, and

hung on the outside, either upon independent metal frames or upon metal hinges attached to the masonry, and shall be made to be handled from the outside, and one such shutter in each room shall have a protected hand-hole eight inches in diameter.

SECT. 38. Elevators and hoists for freight which do not run above the first story may be constructed without fireproof enclosures. Freight and passenger elevators may be placed in areas or hallways where the same are continuous and unbroken, such elevators to be protected by metal grille. Except as above provided, all shafts for elevators, hoists, dumb-waiters, lifts, light and ventilating shafts or other air ducts shall be constructed of fireproof material. The tops of all such shafts shall be covered with fireproof material unless the shaft extends above the upper floor of the building; and, in that case, the shaft shall be carried at least three feet above the roof and shall be covered with a skylight. Such shafts, if for freight or passenger elevators, shall be of brick at least eight inches thick, or of metal covered on both sides with at least one inch of plaster applied immediately to the metal, or with some other equally substantial fireproof material.

Every opening into a shaft or hoistway shall be protected by self-closing gates, rails, trap-doors, or other equivalent devices.

Every elevator shall be provided with a safety attachment to prevent the falling of the car. The machinery over the elevator shall have underneath it a grille sufficient to protect the car from falling material.

Every opening into an elevator shaft or hoistway and every opening through a floor, other than a stairway, shall be closed when not in use.

All elevator shaft openings, other than openings into passenger elevator shafts, shall be furnished with metal covered or incombustible doors, hung in a manner satisfactory to the commissioner, and shall be provided with iron thresholds. Wire glass panels may be used in such doors. Outside windows or openings of every elevator shaft shall have three vertical iron rods, painted red, equally spaced off in such window or opening.

Freight elevators shall be equipped with a suitable danger signal to warn people of the approach of the elevator.

The space between the car and door of each landing shall be not more than two inches.

No elevator shall be used in any building until the same is approved in writing by the commissioner.

In case any freight or passenger elevator is not constructed or furnished in compliance with this chapter, or has become unsafe, the commissioner shall post a conspicuous warning and prohibition at each entrance to such elevator. It shall thereafter, until a new written permit is given by the commissioner, be a penal offence hereunder to operate the said elevator, or to remove or deface the said notice.

Elevators.
1871, 280, § 59.
1872, 260, § 5.
1882, 252, § 1.
1883, 173.
1885, 374, §§ 107.
108, 109, 110.
1888, 367, §§ 3, 4.
1892, 419, §§ 77,
78, 79.
1907, 550, § 38.
149 Mass. 450.
156 Mass. 84.

Freight elevator wells hereafter built on the line of the external wall of a building shall be so constructed that there shall be no recess in the outer wall along the whole line of the same, and that no more than four inches space shall be allowed between the platform of the car and the outer wall. The side of the platform and the line of the doorway shall be flush with the well-way, and the door openings from the said elevator well into the building shall be placed at least six inches back from the face of the well, so as to allow space enough for self-closing gates to operate between the door and the well opening. Outside openings to freight elevators shall be protected by self-closing slatted gates, vertical, with spaces not wider than two inches between the slats.

All elevators running at a speed of more than one hundred feet a minute, shall be operated by competent persons not less than eighteen years of age, and no other person shall operate or have the care or charge of such an elevator.

No elevator shall be operated by or placed in charge of any person under sixteen years of age.

No elevator shall hereafter be installed in any building without a permit having been granted therefor, and the applicant shall submit a plan showing the proposed location of the shaft-way, the area and situation of the machine room, and the said plan shall be filed as part of the records of the department. All elevators hereafter installed shall be located so as to give easy and safe access to all the principal parts of the machinery for inspection and repairs.

All passenger elevators hereafter built operated by drum and cables, shall have an overspeed governor to prevent the car from descending at overspeed, and all passenger and freight elevators shall have a slack cable device to stop the machinery in case the car is held up or the cables part.

If any accident shall occur to any elevator affecting life or limb or damaging any part of the machinery or running parts of the elevator, it shall be the duty of the engineer or superintendent in charge immediately, before any repairs are made, or any broken pieces are removed, to notify the commissioner of the accident, before the elevator is operated again, so that the cause of the accident may be determined, any faulty construction remedied, and satisfactory repairs made.

All elevator cables hereafter installed that pass through bevelled sockets, the ends returning and refitting into the same, shall have, in addition, lead or babbitt metal poured into the ends of the socket, to prevent the possibility of the cables slipping.

All manufacturers of elevators shall be required to test, in the presence of an inspector, the safety devices of every elevator installed before the same is turned over to the owners for use, and the commissioner shall be notified by the manufacturer at least twenty-four hours before such test is made. An inspector may require a test of the safety device of any elevator if in his judgment the same is required.

The commissioner may require additional safeguards on elevators, if in his judgment the condition, use or surroundings of the elevator demand them.

The commissioner may, with the approval of the mayor, appoint competent elevator inspectors in addition to those already detailed, one for every one thousand elevators and hoistways in the city of Boston.

Wooden Buildings.

SECT. 39. Every wooden building hereafter erected shall have a foundation of concrete, rubble, block granite or brick, laid in mortar or other equally substantial material, carried to the surface of the ground. Every such foundation if of brick or concrete, shall be at least twelve inches thick; if of granite, shall be at least sixteen inches thick; if of rubble, shall be at least twenty inches thick; and shall be laid at least four feet below any surface exposed to frost and upon solid ground or upon piles properly spaced.

Wooden buildings.
1892, 419, § 30.
1907, 550, § 39.

Every wooden building hereafter erected or altered, the sills of which do not rest directly upon a foundation as above described, but on an underpinning, shall have such underpinning made of brick, stone or concrete; and if the building is thirty-three feet or less in height above the highest street level of its principal front, the underpinning, if of brick or concrete, shall be at least eight inches thick, and if the building is of greater height, the underpinning, if of brick or concrete, shall be at least twelve inches thick; every underpinning of stone shall be at least sixteen inches thick. Every wooden building, hereafter erected on soft and marshy land, and used for a workshop or other like purpose, or as a temporary structure, may, if the commissioner approves, rest upon mud sills or blocks, or on piles.

Every wooden building hereafter erected or altered shall have all its parts of sufficient strength to carry the weight of the superstructure; shall be built with sills, posts, girts, studs and plates, properly framed, mortised, tenoned, braced and pinned in each story, or with a balloon frame; the posts and girts shall be not less than four by six inches in cross section, and the studs shall be not more than twenty inches apart. Wooden buildings hereafter erected for other purposes than habitation shall not be situated within five feet of the line of the lot unless the side wall on such line or lines be of brick or concrete, built to the under side of the roof.

SECT. 40. No wooden building hereafter erected to be used as a habitation shall be more than three stories in height above the basement, nor more than forty-five feet in height above the street level, nor shall any part of such building, except the eaves and cornice, be nearer than three feet to the line of any adjoining lot, and if built on land of the same owner, nearer than six feet to any other building, unless the side wall of such adjoining building is constructed as a solid brick or concrete

Height of wooden buildings and party walls.
1907, 550, § 40.

wall not less than eight inches thick and carried twelve inches above the roof.

Every wooden building hereafter constructed to form a block of two or more houses shall have a brick or concrete party wall between adjoining houses, which shall be not less than eight inches thick, shall be carried twelve inches above the roof, and shall be capped with a metallic covering.

Flooring during construction.
1867, 550, § 41.

SECT. 41. If, in the erection of an iron or steel frame building, the spaces between the girders or floor beams of a floor are not filled and covered by the permanent construction of such floors before another story is added to the building, a close plank flooring shall be placed and maintained over such spaces during construction. If and when such flooring cannot be used without serious interference with the work of construction, such provision shall be made to protect the workmen from falling materials as will be satisfactory to the commissioner.

ADDITIONAL REQUIREMENTS FOR TENEMENT HOUSES.

Definitions.
1871, 280, § 2.
1873, 338.
1907, 550, § 42.

SECT. 42. Certain words are defined as follows :

(1.) A tenement house is any house, building, structure or portion thereof, occupied, or adapted for occupation, as a dwelling by more than three families living independently of one another and doing their cooking upon the premises, or by more than two families above the first story so living and cooking. A family living in a tenement house may consist of one or more persons.

An existing tenement house is any building erected as such or converted to such use or as altered for such use or so used before the first day of August, in the year nineteen hundred and seven, and any building adapted for such use, provided that a permit was issued for the erection of said building before said date.

A tenement house hereafter erected is any tenement house other than an existing tenement house as above defined.

(2.) A corner lot is a lot situated at the junction of two or more streets and alleys or open passageways not less than fifteen feet in width.

(3.) A yard is an open unoccupied space on the same lot with a building and between the rear line of said building and the rear line of the lot.

(4.) A court is an open unoccupied space, other than a yard, on the same lot with a building. An inner court is a court not extending to a street or alley, or open passageway or yard. An outer court is a court extending to a street or alley, or open passageway or yard. A vent court is an inner court for the lighting and ventilation of water-closets, bath-rooms, public halls, and stair halls only. An intake is a passageway connecting an inner court with a street or alley, or open passageway or yard.

(5.) A shaft, whether for air, light, elevator, dumb-waiter, or any other purpose, is an enclosed space within a building,

extending to the roof, and covered either by a skylight or by the roof. A vent shaft is a shaft used solely to ventilate or light water-closet compartments or bath-rooms.

(6.) A public hall is a hall, corridor or passageway not within an apartment.

(7.) A stair hall includes the stairs, stair landings and those parts of the public hall through which it is necessary to pass in going from the entrance floor to the roof.

(8.) An apartment is a room, or suite of two or more rooms, occupied or suitable for occupation as a residence for one family.

(9.) Repairs means any renewal of any existing part of a building, or of its fixtures or appurtenances, which does not lessen the strength of the building.

SECT. 43. In all tenement houses hereafter erected and more than three stories in height above the basement or cellar there shall be provided one of the following means of egress for escape from fire: (1) an interior enclosed stairway as described in this section; or (2) an exterior iron fire-escape and stairs as hereinafter described; or (3) iron balconies connecting with adjoining houses, or with adjoining parts of the same house separated from each other by a brick partition wall in which there are no openings except such as are protected with fireproof self-closing doors; and every apartment above the first floor shall have access to one of such means of egress.

Fire escapes.
1871, 280, § 37.
1885, 374, § 106
1888, 367, § 1.
1907, 550, § 43.

(1.) Interior fire-escapes may consist of wooden circular stairs, occupying a space of a diameter not less than four feet six inches. Such stairs shall extend from the top floor to the level of the basement, where they shall open into either an outer or an inner court or yard. These stairs shall be separated in the basement from the basement by brick walls at least eight inches thick, and the stairs above the basement shall be enclosed with fireproof partitions clear to a vent skylight, and shall have on each floor, in a public hall accessible from each apartment, a fireproof self-closing door and fireproof frame; the door to open into the corridor, and to be so arranged that it cannot be opened from the stair side; such staircase to be provided with a ventilating skylight at least nine square feet in area. The soffits of the stairs, if they are of wood, shall be plastered on metal lathing.

(2.) Exterior fire-escapes shall be of iron, with iron grated floor, and capable of bearing a load of seventy pounds per square foot. The stair treads shall be of iron, and the pitch of the stairs shall not exceed sixty degrees.

Balconies shall be at least three feet four inches wide, and the stairs at least twenty inches. There shall be a landing at the foot of each flight, and at the level of the second floor there shall be cantilever ladders. The rails on horizontal balconies and on the stairs shall be at least two feet ten inches high at all points.

(3.) Balconies connecting adjoining houses, or adjoining parts of the same house as described above, shall be not less than thirty inches wide and capable of sustaining a load of seventy pounds per square foot. Railings shall be not less than two feet ten inches high, and shall be of iron.

Bulkheads
and scuttles.
1897, 550, § 44.

SECT. 44. Every tenement house of the first or second class hereafter erected shall have in the roof a fireproof bulkhead with a fireproof door to the same, and shall have fireproof stairs with a guide or hand rail leading to the roof, except that in such tenement houses which do not exceed sixty-five feet in height, such bulkheads may be of wood covered with metal on the outside and plastered on metal lathing on the inside; provided that the door shall be covered with metal on both sides.

Every other tenement house shall have in the roof a bulkhead or scuttle. No scuttle shall be less in size than two feet by three feet, and all scuttles shall be covered on the outside with metal, and shall be provided with stairs or stationary ladders leading thereto and easily accessible to all tenants of the building, and kept free from encumbrance, and all scuttles and ladders shall be kept so as to be ready for use at all times. No scuttle shall be situated in a closet or room, but all scuttles shall be in the ceiling of the public hall on the top floor, and access through the scuttle to the roof shall be direct and uninterrupted. Scuttles shall be hinged so as to readily open. Every bulkhead hereafter constructed in a tenement house shall be constructed as provided for tenement houses hereafter erected and shall have stairs with a guide or hand rail leading to the roof, and such stairs shall be kept free from encumbrance at all times. No lock shall be placed on any scuttle or bulkhead door, but either may be fastened on the inside by movable bolts or hooks. All key-locks on scuttles and on bulkhead doors shall be removed. No stairway leading to the roof in a tenement house shall be removed.

Stairs and public halls.
1871, 280, § 38.
1907, 550, § 45.

SECT. 45. Every tenement house hereafter erected shall have at least one stairway extending from the entrance floor to the roof, and every tenement house hereafter erected containing more than one hundred rooms above the first floor, exclusive of water-closets and bath-rooms, shall have an additional separate stairway for every additional one hundred rooms or fraction thereof. Public halls therein shall each be at least three feet wide in the clear, and stairs shall be at least three feet wide between the wall and the stair rail.

Each stairway shall have an entrance on the entrance floor from a street or alley or open passageway or from an outer court, or from an inner court which connects directly with a street or alley or open passageway. All stairs shall be constructed with a rise of not more than eight inches, and with treads not less than nine inches wide and not less than three feet long in the clear. Where winders are used all treads at a point eighteen inches from the strings on the wall side shall be at least ten inches wide.

In every tenement house, all stairways shall be provided with proper balusters and railings kept in good repair. No public hall or stair in a tenement house shall be reduced in width so as to be less than the minimum width prescribed in this section.

SECT. 46. In tenement houses hereafter erected which do not exceed five stories above the cellar or basement or sixty-five feet in height, the stair halls shall either be constructed with iron beams and fireproof filling or shall be filled in between the floor beams with at least five inches of cement deafening. In such houses, the stairs may be of wood, *provided* that the soffits are covered with metal laths and plastered with two coats of mortar, or with good quality plaster-boards not less than one-half inch in thickness made of plaster and strong fibre, and all joints made true and well pointed, and *provided* that such stairs are furnished with fire-stops.

Stair halls,
construction
of.
1907, 550, § 46.

SECT. 47. In second class and third class tenement houses hereafter erected, the stair halls may be enclosed with wooden stud partitions, if such partitions are covered on both sides with metal laths or with good quality plaster-boards not less than one-half inch in thickness, made of plaster and strong fibre, and all joints made true and well pointed, and *provided* that the space between the studs is filled in with brick and mortar or other incombustible material to the height of the floor beams.

Stair halls,
how enclosed.
1907, 550, § 47.

SECT. 48. Every entrance hall in every tenement house hereafter erected shall be at least three feet six inches wide in the clear, from the entrance up to and including the stair enclosure, and beyond this point at least three feet wide in the clear, and shall comply with all the conditions of the preceding sections of this chapter as to the construction of stair halls, except that in a fireproof tenement house hereafter erected the entrance hall may be enclosed with terra-cotta blocks not less than four inches thick and angle iron construction, instead of brick walls. If such entrance hall is the only entrance to more than one stairway, that portion of said hall between the entrance and the stairway shall be increased at least eighteen inches in width in every part for each additional stairway.

Entrance halls.
1907, 550, § 48.

SECT. 49. In all tenement houses of the second or third class hereafter erected, the cellar and basement ceilings shall be lathed with metal laths and plastered.

Cellar ceilings.
1907, 550, § 49.

SECT. 50. In all tenement houses of the second or third class hereafter erected, all stud partitions which rest directly over each other shall run through the wooden floor beams and rest upon the cap of the partition below, and shall have the studding filled in solid between the uprights to the depth of the floor beams with suitable materials.

Partitions,
construction
of.
1907, 550, § 50.

SECT. 51. Outside of the building limits, tenement houses not exceeding three stories in height above the basement, nor eighteen hundred square feet in area, may be erected of wood. No wooden tenement house shall be increased in height so as to exceed three stories above the basement or cellar.

Wooden tenement houses.
1907, 550, § 51.

Elevator or
dumb-waiter
shafts.
1907, 550, § 52.

SECT. 52. All elevator or dumb-waiter shafts hereafter constructed in any tenement house shall be fireproof throughout, with fireproof self-closing doors at all openings at each story. But nothing in this section shall be so construed as to require enclosures about elevators or dumb-waiters in the well-hole of stairs where the stairs themselves are enclosed in walls of incombustible materials, and are entirely constructed of fireproof materials as hereinbefore provided. Every vent shaft hereafter constructed in any tenement house shall have an intake of at least the dimensions provided for vent courts in section sixty-one, and shall be of the same minimum dimensions; and the skylight covering such vent shaft shall be raised at all points at least one foot above the top of the walls of such vent shaft, and the space between the top of said walls and the skylight shall remain at all points open and unobstructed except for such supports essential to the stability of the skylight, as may be approved by the commissioner.

Bakeries and
fat boiling.
1907, 550, § 53.

SECT. 53. No bakery and no place of business in which fat is boiled shall be maintained in any tenement house which is not fireproof throughout, unless the ceiling and side walls of said bakery or of the said place where fat boiling is done are made safe by fireproof materials around the same, and there shall be no openings either by door or window, dumb-waiter shafts or otherwise, between said bakery or said place where fat is boiled in any tenement house and the other parts of the building.

Precautions
where danger-
ous substances
are stored.
1907, 550, § 54.

SECT. 54. All transoms and windows opening into halls from any part of a tenement house where paint, oil, spirituous liquors or drugs are stored for the purpose of sale or otherwise shall be glazed with wire-glass, or they shall be removed and closed up as solidly as the rest of the wall. There shall be between any such hall and such part of said tenement house a fireproof self-closing door.

Tenement-
house yards,
1907, 550, § 55.

SECT. 55. The requirements for yards hereinafter provided shall be deemed sufficient for all tenement houses.

Except in those cases hereinafter provided for, there shall be, behind every tenement house hereafter erected, a yard extending across the entire width of the lot, and at every point open from the ground to the sky unobstructed, except by fire-escapes or unenclosed outside stairs.

The depth of said yard shall be measured from the extreme rear wall of the house to the rear line of the lot, and at right angles to said line, except that where there is an alley or open passageway in the rear of the lot the depth of the yard may be measured to the middle of said alley or open passageway. On an irregular lot of several depths, where there is more than one rear line to the lot, such yard may extend across the entire width of the lot in sections, provided that each section of the yard is in every part and at every point of the minimum depth hereinafter prescribed. Where the side lines of a lot converge toward the rear, the depth of the yard shall be such as to give

it an area equal to the greatest width of the yard multiplied by the depth hereinafter prescribed.

Except on a corner lot, the depth of the yard behind every tenement house hereafter erected fifty feet in height or less shall be not less than twelve feet in every part. All yards without exception shall be increased in depth at least one foot for every additional ten feet of height of the building, or fraction thereof, above fifty feet.

Except as hereinafter otherwise provided, the depth of the yard behind every tenement house hereafter erected upon a corner lot shall not be less than six feet in every part. But where such corner lot is more than twenty-five feet in width, the depth of the yard for that portion in excess of twenty-five feet shall be not less than twelve feet in every part, and shall increase in depth as above provided.

Whenever a tenement house is hereafter erected upon a lot which runs through from street to street, or from a street to an alley or open passageway, and said lot is one hundred and fifty feet or more in depth, said yard space shall be left midway between the two streets, and shall extend across the entire width of the lot, and shall be not less than twenty-four feet in depth from wall to wall, and shall be increased in depth at least two feet for every additional ten feet in height of the building, or fraction thereof, above fifty feet.

When a tenement house hereafter erected does not front upon a street, a public alley, or a passageway, not less than fifteen feet wide, the requirements in this section as to yards shall apply to the front of such tenement house as well as to the rear. Neither the yard behind one tenement house nor any part thereof shall be deemed to satisfy in whole or in part the requirement of a yard in front of another tenement house.

SECT. 56. No yard shall be required behind a tenement house hereafter erected upon a lot which abuts at the rear upon a railroad right of way, a cemetery or a public park.

Exemption
from maintenance, when.
1907, § 50, § 56.

No yard shall be required behind a tenement house hereafter erected upon a lot entirely surrounded by streets or by streets, alleys or open passageways, not less than fifteen feet in width, or by such streets, alleys, and passageways and a railroad right of way, a cemetery or a public park.

No yard shall be required behind a tenement house hereafter erected upon a lot less than one hundred and fifty feet deep and running through from street to street or from a street to an alley or open passageway not less than fifteen feet in width, or upon a corner lot adjoining a lot less than one hundred and fifty feet deep and running through from street to street, or from a street to such an alley or open passageway.

No yard shall be required behind a tenement house hereafter erected upon a corner lot adjoining a lot more than one hundred and fifty feet deep and running through from street to street or from a street to an alley or open passageway not less than fifteen feet in width; but if there be no yard, an outer

court upon such corner lot shall extend from the street along the line of such adjoining lot to a point in line with the middle line of the block; the width of said court to be not less than the width of court prescribed in the ensuing paragraph.

No yard shall be required behind a tenement house hereafter erected upon a corner lot adjoining two or more lots any one of which bounds upon a single street, or alley, or open passageway not less than fifteen feet in width; but if there be no yard, an outer court upon such corner lot shall extend from the street, or from such alley or open passageway along a lot line either to the extreme rear of an adjoining lot or to the extreme rear of said corner lot: *provided*, that the width of said court measured from the lot line to the opposite wall of the building, for tenement houses fifty feet or less in height, shall be not less than six feet in every part, and for every additional ten feet of height of the tenement house shall be increased one foot throughout the whole length of said court.

Unobstructed
courts.
1907, 550, § 57.

SECT. 57. No court of a tenement house hereafter erected shall be covered by a roof or skylight, but every such court shall be at every point open to the sky unobstructed. Except such courts as are provided for in section fifty-six, all courts, except for fire-escapes, may start at the second tier of beams.

Outer courts
for tenement
houses.
1907, 550, § 58.

SECT. 58. The provisions of this section shall apply only to tenement houses hereafter erected. Where one side of an outer court is located on the lot line, the width of the said court, measured from the lot line to the opposite wall of the building, for tenement houses fifty feet or less in height shall not be less than six feet in every part; and for every ten feet of increase or fraction thereof in height of such tenement houses, such width shall be increased one foot throughout the whole length of the court, and except where the court runs through from the yard to the street, said width shall never be less than one-eighth of the length of the court.

Where an outer court is located between wings or parts of the same building, or between different buildings on the same lot, the width of the court, measured from wall to wall, for tenement houses fifty feet or less in height shall not be less than twelve feet in every part, and for every ten feet of increase or fraction thereof in the height of the said building, such width shall be increased two feet throughout the whole length of the court. The depth of such courts shall never exceed four times their width.

Wherever an outer court changes its initial horizontal direction, or wherever any part of such court extends in a direction so as not to receive direct light from the street or yard, or from an alley, or open passageway not less than fifteen feet in width, the length of that part of the court shall never exceed its width, such length to be measured from the point at which the change of direction begins. Wherever an outer court between parts of the same building is twelve feet or less in depth, its width may be one-half its depth, *provided* that such width is never less than

four feet in the clear. This exception shall also apply to every offset or recess in outer courts. And no window except windows of water-closet compartments, bath-rooms, or halls shall open upon any offset or recess less than four feet in width.

SECT. 59. The provisions of this section shall apply only to tenement houses hereafter erected. Where one side of an inner court is located on the lot line and the building does not exceed fifty feet in height, the least width of the court shall be not less than eight feet, and the area of the court shall be not less than one hundred and twenty-eight square feet. For every ten feet or fraction thereof of increase in the height of the building above fifty feet, the minimum width of such inner courts shall be increased by one foot, and the area thereof shall never be less than twice the square of such minimum width. Where an inner court is not located on the lot line, but is enclosed on all four sides, and the building does not exceed fifty feet in height, the least width of said court shall be not less than sixteen feet and the area not less than two hundred and fifty-six square feet. For every ten feet, or fraction thereof, of increase in the height of said building above fifty feet, the minimum width of such inner courts shall be increased by two feet, and the area of the court shall never be less than the square of such minimum dimension.

Inner courts.
1907, 550, § 50.

SECT. 60. Inner courts used solely for the lighting and ventilation of water-closets, bath-rooms, public halls, or stair halls, or for interior fire-escapes, may be constructed in any tenement house, and shall be not less than fifteen square feet in area, nor less than three feet in the least horizontal dimension for buildings fifty feet or less in height. For every increase of ten feet or fraction thereof in the height of such buildings the least dimension shall be increased by one foot, and the area by not less than eight square feet.

Vent courts.
1907, 550, § 50.

SECT. 61. Every inner court in a tenement house hereafter erected shall be provided with one or more horizontal intakes at the bottom. Such intakes, in vent courts, shall be not less than four square feet in area, so arranged as to be easily cleaned; in other inner courts they shall be not less than three feet wide and seven feet high, and there shall be at least two open grille doors, containing not less than fifteen square feet of unobstructed openings, one at the inner court and the other at the street or yard as the case may be.

Intakes.
1907, 550, § 61.

Nothing contained in the foregoing sections concerning outer and inner courts shall be construed as prohibiting windows in walls that cut off the angles of such courts, *provided* that the running length of the walls containing such windows does not exceed six feet.

SECT. 62. No tenement house shall hereafter be so enlarged or its lot so diminished, and no building of any kind shall be hereafter so placed upon the same lot with a tenement house, as to decrease the minimum depth of yards or the minimum size of courts or yards prescribed in this chapter for tenement houses hereafter erected.

Buildings on
same lot with
tenement
houses.
1907, 550, § 62.

Windows and
alcoves in ten-
ement houses.
1871, 280, § 35.
1892, 419, § 110.
1907, 550, § 63.

SECT. 63. In every tenement house hereafter erected there shall be in each room, except water-closet compartments and bath-rooms, windows of a total area of at least one eighth of the floor area of the room, opening directly on a street or public alley or open passageway not less than fifteen feet wide or upon a yard or court of the dimensions hereinbefore specified, or upon a railroad right of way, cemetery or public park; and such windows shall be located so as properly to light all parts of the room. The top of at least one window shall be not less than eight feet above the floor, and the upper half of it shall be made so as to open the full width.

Every alcove in every tenement house hereafter erected shall be provided with an opening into a room, such opening to be equal in area to eighty per cent. of that side of the alcove in which the opening is located; and the alcove shall have at least one window of not less than fifteen square feet of glazed surface opening as provided in this section.

Size of rooms.
1871, 280, § 48.
1892, 419, § 110.
1907, 550, § 64.

SECT. 64. In every tenement house hereafter erected, all rooms, except water-closet compartments and bath-rooms, shall be of the following minimum sizes: In each apartment, there shall be at least one room containing not less than one hundred and twenty square feet of floor area and provided with a chimney flue and thimble, except where said room is furnished with heat from a central heating apparatus, and every other room shall contain at least ninety square feet of floor area. Each room shall be in every part not less than eight and one-half feet high from the finished floor to the finished ceiling; provided that only one-half of an attic room need be eight and one-half feet high.

No portion of a room in any such tenement house shall be partitioned off so as to form a room not conforming to the provisions of sections sixty-three and sixty-four, or so as to form an alcove not conforming to sections sixty-three and seventy.

Public halls.
1907, 550, § 65.

SECT. 65. Except as otherwise provided in section sixty-six, in every tenement house hereafter erected, every public hall shall have at least one window opening directly upon a street, a public alley or open passageway not less than ten feet in width, a railroad right of way, a cemetery or a public park, or upon a yard or court or a vent court as provided in section sixty. Either such window shall be at the end of said hall, with the plane of the window substantially at right angles to the axis of the hall, or there shall be at least one window opening as above prescribed in every twenty feet in length or fraction thereof of the hall; but this provision for one window in every twenty feet of hallway shall not apply to that part of the entrance hall between the entrance and the first flight of stairs, provided that the entrance door contains not less than five square feet of glazed surface. At least one of the windows provided to light each public hall shall be at least two feet six inches wide and five feet high, measured between the

stop beads. Any part of a hall which is shut off from any other part of said hall by a door or doors shall be deemed a separate hall within the meaning of this section.

SECT. 66. In every tenement house hereafter erected, the aggregate area of windows to light or ventilate stair halls on each floor shall be at least fifteen square feet: *provided, however*, that when there shall be, within the space enclosed by the stairway and its landings, from the second story upward, an open area for light and ventilation whose least horizontal dimension shall be equal to the width of the stairs, but in no case less than three feet, then the windows required in sections sixty-five and sixty-six may be omitted.

Stair hall windows.
1907, 550, § 66.

There shall be in the roof, directly over each stair well, in all tenement houses hereafter erected, without windows as above provided, a ventilating skylight provided with ridge ventilators, having a minimum opening of forty square inches, or else such skylight shall be provided with fixed or movable louvres. The glazed roof of the skylight shall not be less than twenty square feet in area.

SECT. 67. In every apartment of four or more rooms in a tenement house hereafter erected, at least one water-closet compartment shall be accessible without passing through any bedroom.

Privacy.
1907, 550, § 67.

SECT. 68. In tenement houses hereafter erected no room in the basement shall be occupied for living purposes, unless all of the following conditions are complied with:

Basements in tenement houses.
1871, 280, § 40.
1907, 550, § 68.

(1.) Such room shall be at least eight and one-half feet high in every part from the floor to the ceiling.

(2.) There shall be appurtenant to such room the use of a separate water-closet, constructed and arranged as required by section sixty-nine.

(3.) Such room shall have a window or windows opening upon the street, an alley or open passageway not less than fifteen feet in width, a railroad right of way, cemetery or public park or upon a yard or court. The total area of windows in such room shall be at least one-eighth of the floor area of the room, and one-half of the sash shall be made to open full width, and the top of each window shall be within six inches of the ceiling.

(4.) The floor of such room shall be damp-proof and water-proof, and all walls surrounding such room shall be damp-proof.

SECT. 69. In every tenement house hereafter erected there shall be a separate water-closet in a separate compartment within each apartment of four or more rooms. Where apartments consist of less than four rooms there shall be at least one water-closet for every three rooms, and on the same floor with said rooms. Every such water-closet shall be placed in a compartment completely separated from every other water-closet, and such compartment shall be not less than two feet and four inches wide, and shall be enclosed with plastered partitions, or some equally substantial material, which shall extend to the ceiling.

Water-closets in tenement houses.
1871, 280, § 39.
1907, 550, § 69.
186 Mass. 397.

Such compartment shall have a window, opening directly, or through a straight horizontal shaft of the same dimensions as the window and not more than four feet long, upon a street, a railroad right of way, cemetery or public park or a yard or alley or open passageway not less than four feet wide, or upon a vent court or upon a covered passageway not more than twenty feet long and at least twenty feet wide, and twenty feet high. Every such window shall be at least one foot by three feet between stop beads; and the whole window shall be made so as to open readily. When, however, such water-closet compartment is located on the top floor and is lighted and ventilated by a skylight over it, no window shall be necessary, provided that the roof of such skylight contains at least three square feet of glazed surface and is arranged so as to open readily. Nothing in this section in regard to the separation of water-closet compartments from each other shall apply to a general toilet-room containing several water-closets, hereafter placed in a tenement house, *provided* that such water-closets are supplemental to the water-closet accommodations required by law for the use of the tenants of the said house. Nothing in this section in regard to the ventilation of water-closet compartments shall apply to a water-closet hereafter placed in an existing tenement house, to replace a defective fixture in the same position and location. No water-closet shall be maintained in the cellar of any tenement house without a permit in writing from the board of health; and said board shall have power to make rules and regulations governing the maintenance of such closets. Every water-closet compartment in any tenement house shall be provided with proper means of lighting the same at night. If fixtures for gas or electricity are not provided in such compartment, then the door of such compartment shall be provided with translucent glass panels, or with a translucent glass transom, not less in area than four square feet. The floor of every such water-closet compartment shall be made waterproof with asphalt, tile, stone or some other waterproof material; and such waterproofing shall extend at least six inches above the floor on all sides of the compartment except at the door opening, so that the floor can be washed or flushed without leaking. No drip trays shall be permitted. No water-closet fixtures shall be inclosed with any woodwork.

Lighting and ventilation of existing tenement houses. 1892, 419, § 109. 1907, 550, § 70.

SECT. 70. Excepting water-closet compartments and bath-rooms, wherever a room in any tenement house has a window or windows of less than nine square feet of glazed surface opening on a street, a railroad right of way, cemetery, public park, alley or open passageway not less than ten feet in width, such window or windows shall be enlarged and provided with the above mentioned glazed surface, and wherever such room does not open as above provided, or opens upon an alley or open passageway less than ten feet in width or upon a shaft or upon a court less than six feet in its least dimension, then such room shall be provided with a sash window communicating with

another room in the same apartment, having windows of at least the superficial area prescribed for the windows of rooms in tenement houses hereafter erected and opening on a street, a railroad right of way, cemetery, public park or alley or open passageway at least ten feet in width, or on a court or courts at least equivalent to the courts required in sections fifty-eight and fifty-nine; and such new sash window shall contain not less than fifteen square feet of glazed surface and shall be made so as to open readily. One wall of every alcove in an existing tenement house shall be provided with an opening equal in area to eighty per cent. of the wall. No tenement house shall be so altered as to reduce the provisions for the light and ventilation of any room or alcove or public hall or stair hall below the requirements of this chapter.

SECT. 71. In every existing tenement house there shall be in the roof, directly over each stair well, a ventilating skylight, provided with ridge ventilators and also with fixed or movable louvres or movable sashes. But this section shall not apply to any tenement house now having windows as provided in section sixty-five or a bulkhead in the roof over the main stairs, which bulkhead is provided with windows made so as to open readily, and with not less than twelve square feet of glass in the top of the bulkhead. All skylights hereafter placed in any tenement house shall conform to the provisions of section sixty-six. All the existing dome lights or other obstructions to skylight ventilation shall be removed.

Skylights.
1907, 550, § 71.

Where the public hall in an existing tenement house is not provided with windows opening as provided in section sixty-five, and where there is not a stair well as provided in section sixty-six, all doors leading from such public hall into apartments shall be provided with translucent glass panels of an area of not less than four square feet for each door; or such public hall may be lighted by a window or windows at the end thereof with the plane of the window at right angles to the axis of the hall, said window opening upon the street, a railroad right of way, cemetery, public park, or an alley or open passageway at least ten feet in width, or upon a yard or court of the dimensions hereinbefore provided.

SECT. 72. In existing tenement houses, the woodwork enclosing the space underneath the seat of all water-closets used in common by two or more families shall be removed and such space shall be left open. The floor or other surface beneath and around such closet shall be maintained in good order and repair, and the floors made waterproof to the satisfaction of the board of health.

Water-closets
in existing
tenement
houses.
1907, 550, § 72.

Every such water-closet shall be located in a compartment completely separated from every other water-closet, and such compartment shall be ventilated to the satisfaction of the board of health. There shall be provided at least one water-closet for every three families or for every nine rooms in every existing tenement house.

Water supply.
1907, 550, § 73.

SECT. 73. In every tenement house hereafter erected, there shall be in each apartment a proper sink with running water.

Every existing tenement house shall have water furnished in sufficient quantity at one or more places on each floor occupied by or suitable to be occupied by one or more families. The owner shall provide proper and suitable tanks, pumps or other appliances to receive and to distribute a sufficient supply of water at each floor in the said house at all times of the year, during all hours of the day and night.

The woodwork enclosing sinks located in the public halls or stairs shall be removed, and the space underneath the sinks shall be left open. The floors and wall surfaces beneath and around the sink shall be maintained in good order and repair.

Grading and
drainage of
court yards.
1907, 550, § 74.

SECT. 74. In every tenement house, all courts, areas, intakes and yards shall be properly graded, drained and paved or otherwise surfaced to the satisfaction of the board of health.

Receptacles
for garbage
and ashes.
1871, 280, § 42.
1892, 419, § 112.
1907, 550, § 75.

SECT. 75. The owner of every tenement house shall provide therefor suitable covered, water-tight receptacles, satisfactory to the board of health, for ashes, rubbish, garbage, refuse and other matter. No person shall place ashes, rubbish, garbage, refuse or other matter in the yards, open areas or alleys connected with, or appurtenant to, any tenement house except in suitable receptacles provided for the same.

Powers of
building com-
missioner.
1907, 550, § 76.

SECT. 76. The commissioner shall not dispense with any of the requirements of sections forty-two to seventy-five, inclusive.

THEATRES.

Definition of
theatre.
1907, 550, § 77.

SECT. 77. Every building hereafter erected so as to contain an audience hall and a stage, with curtain, movable or shifting scenery and machinery, adapted for the giving of plays, operas, spectacles or similar forms of entertainment, and of a size to provide seats for more than five hundred spectators shall be a theatre within the meaning of this chapter. No existing building not now used as a theatre shall be altered and used as a theatre, unless it conforms to the provisions of this chapter for a new theatre.

Construction
of theatres.
1885, 374, § 126.
1907, 550, § 78.

SECT. 78. Every theatre hereafter built shall be of fireproof construction throughout, except that the floor boards may be of wood, and the steel work of the stage, of the fly galleries, and of the rigging loft need not be fireproofed.

Open courts
for theatres.
1892, 419, § 91.
1907, 550, § 79.

SECT. 79. Every theatre built in a block not on a corner shall have an open court or passageway on both sides extending from the proscenium line to the line of the street on the front, or, in case the building abuts on a street both in front and rear, these passages may extend from the line of the front of the auditorium to the line of the rear street. These passages shall be at least six feet wide throughout their length, and shall not be closed by any locked gate or doorway. They shall immediately adjoin the auditorium, or a side passage or lobby directly connected therewith. These passages shall be open to the sky

opposite the whole depth of the auditorium, but may be carried out to the street front or rear through passages enclosed by brick walls or other fireproof material equally efficient, and covered by a solid brick vault at least eight inches thick, each passage to be not less than eight feet wide and ten feet high throughout.

SECT. 80. Every theatre built upon the corner of two streets shall have one inner court on the side of the building away from the side street, such court to be of the same description as the courts provided for in the preceding paragraph.

Inner courts.
1907, 550, § 80.

SECT. 81. Nothing in this chapter shall be construed to prohibit the use of any part of a theatre building for stores, offices, or for habitation, provided that the parts so used shall be built with exits to the street entirely distinct from the rest of the building and shall be separated from the rest of the building by solid partitions or walls, without any openings in the same.

Stores in theatre buildings.
1907, 550, § 81.

Floor Levels.

SECT. 82. In all theatres, the entrances shall be not more than one step above the level of the sidewalk of the main street, and the stage shall be not more than five feet above the said level.

Theatre floor levels.
1885, 374, § 126.
1892, 419, § 90.
1894, 443, § 23.
1907, 550, § 82.

Proscenium Wall.

SECT. 83. The stage of every theatre shall be separated from the auditorium by a wall of fireproof construction, which wall shall extend the whole width of the auditorium and the whole height to the roof of the portion occupied by the stage. There shall be no openings through this wall except the curtain opening, one doorway each side behind the boxes, and one doorway which shall be located at or below the level of the stage. The doorways shall not exceed twenty-one superficial feet each, and shall have standard fire-doors hung in a manner satisfactory to the commissioner. The finish or decorative features around the curtain opening of every theatre shall be of fireproof material.

Proscenium wall.
1885, 374, §§ 128, 131.
1892, 419, § 98.
1907, 550, § 83.

SECT. 84. The proscenium or curtain opening of every theatre shall have a fire-resisting curtain reinforced by wire netting or otherwise strengthened. If of iron, or similar heavy material, and made to lower from the top, it shall be so arranged as to be stopped securely at a height of seven feet above the stage floor, the remaining opening being closed by a curtain or valance of fire-resisting fabric.

Fire-resisting curtain.
1885, 374, § 132.
1892, 419, § 100.
1907, 550, § 84.

SECT. 85. The part of the stage floor, usually equal to the width of the proscenium opening, used in working scenery, traps or other mechanical apparatus, may be of wood, and no flooring used thereon shall be less than one and one-eighth inches in thickness.

Stage floor.
1885, 374, § 133.
1907, 550, § 85.

SECT. 86. There shall be one or more ventilators near the centre, and above the highest part of the stage of every theatre, of a combined area of opening satisfactory to the commissioner,

Ventilators.
1885, 374, § 138.
1892, 419, § 103.
1907, 550, § 86.

and not less than one-tenth of the area of the undivided floor space behind the curtain at the stage floor level. The openings in every such ventilator shall be closed by valves or louvres so counterbalanced as to open automatically, which shall be kept closed, when not in use, by a fusible link and cord reaching to the prompter's desk, and readily operated therefrom. Such cord shall be of combustible material, and so arranged that if it is severed the ventilator will open automatically.

Skylight coverings for ventilators shall have sheet metal frames set with double-thick glass, each pane thereof measuring not less than three hundred square inches, or shall be protected with wire glass. If wire glass is not used, a suitable wire netting shall be placed immediately beneath the glass, but above the ventilator opening. Illuminating fixtures over the auditorium shall be suspended and secured in a manner approved by the commissioner.

Glass on illuminating fixtures over the auditorium shall be secured from danger of falling as the commissioner shall require, but in no case shall any glass more than six inches in diameter or length be hung over the auditorium unless protected from falling by a wire netting or similar device satisfactory to the commissioner.

Seats in audi-
torium.
1907, 550, § 87.

SECT. 87. All seats in the auditorium excepting those contained in boxes shall be spaced not less than thirty inches from back to back, measured in a horizontal direction, and shall be firmly secured to the floor. No seat in the auditorium shall have more than six seats intervening between it and an aisle, on either side.

The platforms for seats in balconies and galleries shall now-where have a greater rise than twenty-one inches, nor be less than thirty inches from back to back.

Aisles in thea-
tres.
1907, 550, § 88.

SECT. 88. All aisles on the respective floors in the auditorium, having seats on both sides of the same, shall be not less than thirty inches wide where they begin, and shall be increased in width towards the exits in the ratio of one inch to five running feet. Aisles having seats on one side only shall be not less than two feet wide at their beginning and shall increase in width, the same as aisles having seats on both sides.

Changes in
floor levels.
1885, 374, § 118.
1892, 419, § 91.
1907, 550, § 89.

SECT. 89. All changes in the levels of the floors of such buildings, except under stairways, from story to story, and except the necessary steps in galleries and balconies rising toward the exits, shall be made by inclines of no steeper gradient than two in ten within the auditorium, and rising toward the exits, and one in ten for all others.

Lobbies.
1885, 374, § 126.
1892, 419, § 99.
1907, 550, § 90.

SECT. 90. Preceding each division of the theatre there shall be foyers, lobbies, corridors, or passages, the aggregate capacity of which on each floor or gallery shall be sufficient to contain the whole number to be accommodated on such floor or gallery in the ratio of one square foot of floor room for each person.

Stage doors.
1907, 550, § 91.

SECT. 91. There shall be not less than two exit doors, each not less than three feet in width, located on opposite sides of

the stage, and opening directly upon a street, alley, court or courtway leading to a public thoroughfare.

SECT. 92. All rooms in theatres for the use of persons employed therein shall have passages to at least two independent means of exit.

Room exits.
1885, 374, § 136.
1892, 419, § 102.
1907, 550, § 92.

SECT. 93. All doors of exit or entrance shall open outward, and shall be hung so as to swing in such a manner as not to become an obstruction in a passage or corridor, and no such doors shall be fastened so as to be inoperative when the building is occupied by an audience.

Doors to open outwardly.
1871, 280, § 80.
1892, 419, § 91.
1907, 550, § 98.

SECT. 94. No mirrors shall be so placed as to give the appearance of a doorway or exit, hallway or corridor, nor shall there be any false doors or windows.

False doors prohibited.
1907, 550, § 94.

SECT. 95. A common exit may serve for the main floor of the auditorium and the first gallery, *provided* that its capacity be equal to the aggregate capacity of the outlets from the main floor and the said gallery; and *provided* that the lowermost run of any exit leading from a gallery shall not open directly at right angles with the central axis of a common exit unless there is a clear space or landing of at least one and one-quarter times the width of the exit between the foot of such exit and such centre line or nearest exit doorway.

Main floor and first gallery exits.
1907, 550, § 95.

SECT. 96. Two distinct and separate exits shall be provided for each gallery and balcony above the main floor; and the same shall be located on opposite sides of the galleries.

Exits.
1885, 374, § 126.
1892, 419, § 90.
1894, 443, § 23.
1907, 550, § 96.

All gallery or balcony exits shall start with a width of not less than four feet at the uppermost gallery.

Exits from balconies and galleries shall not communicate with the basement or cellar.

SECT. 97. The aggregate width of all the exits previously described shall be estimated on a basis of not less than twenty inches for every one hundred persons for whom seats are provided in the sections of the auditorium served by the respective exits.

Aggregate width of exits.
1892, 419, § 90.
1894, 443, § 23.
1907, 550, § 97.

SECT. 98. In addition to the exits previously described there shall be one exit from each side of each gallery, balcony, and main floor of auditorium, at least five feet wide, leading to exterior balconies not less than four feet wide and twenty feet long on each side of the auditorium. From such balconies, there shall be staircases extending to the ground level, which may be counterweighted, with risers of not over eight and one half inches and treads of not less than nine and one half inches, exclusive of nosing. The aggregate width of these emergency stairs shall be not less than ten inches for every one hundred people served thereby, no single stairs being less than thirty inches wide. If counterweighted, these stairs shall be lowered during all performances.

Emergency exits.
1907, 550, § 98.

Where all such stairs are in an interior court, each run shall be covered by a light awning of iron.

Nothing herein shall prohibit the building of emergency stairs and exits inside the walls of the building, provided that

they are surrounded by a fireproof partition not less than four inches thick separating the exits and stairways from the audience room or auditorium.

Additional requirements.
1885, 374, § 125.
1892, 419, §§ 96, 98.
1907, 550, § 99.

SECT. 99. The commissioner shall have power to require a greater number or capacity of exits than is herein prescribed.

In every theatre, there shall be over every exit, on the inside, and over every opening to a fire-escape, on the inside, an illuminated sign, bearing the word "exit" or "fire-escape" respectively, in letters not less than four inches high. The lights for the exit signs, passages, stairs, lobbies, auditoriums, rear of auditoriums, balconies, galleries, and for the balconies and stairs outside the building, shall be so arranged that they can be turned on or off independently of the means provided on the stage or in any part of the building in the rear of the proscenium wall. Every exit sign shall be kept illuminated, and every outside balcony and fire-escape shall be kept well lighted during the performance, except outside exits during a performance before sunset.

Plans showing the exits and stairways shall be legibly printed so as to occupy a full page of every programme or play-bill.

In said buildings there shall be such number of gas pipe outlets as the commissioner may require, fitted with no less than two gas burners. Such burners shall be inspected and tried at least once in every three months by inspectors of the department, to ascertain if they are in proper working order. The inspector shall make a report of each visit, stating the condition of the burners and the action of the inspector in regard to them.

The commissioner shall have authority to order any defect in the working of such burners as are necessary for public safety to be remedied.

So much of this section as applies to the inspection of gas burners shall apply to buildings now used as theatres.

Stairs.
1885, 374, § 123.
1892, 419, § 92.
1907, 550, § 100.

SECT. 100. The cut of the stair stringers shall not exceed seven and one half inches rise, nor be less than ten and one half inches tread. There shall be no flights of stairs of more than fifteen or less than three steps between landings.

Stair landings.
1892, 419, § 93.
1907, 550, § 101.

SECT. 101. Every landing shall be at least four feet wide. When straight stairs return directly on themselves, a landing of the full width of both flights, without any steps shall be provided. The outer line of landings shall be curved to a radius of not less than two feet to avoid square angles. Stairs turning at an angle shall have a proper landing without winders introduced at the turn. No door shall open immediately upon a flight of stairs, but a landing at least two feet wider than the width of the door opening shall be provided between such stairs and such door. When two side flights connect with one main flight, no winders shall be introduced, and the width of the main flight shall be at least equal to the aggregate width of the side flights.

Hand rails.
1885, 374, § 121.
1892, 419, § 93.
1907, 550, § 102.

SECT. 102. All enclosed stairways shall have, on both sides, strong hand-rails, firmly secured to the wall, about three inches distant therefrom and about three feet high above the stairs.

All stairways eight feet and over in width shall be provided with a central rail of metal or hard wood, not less than two inches in diameter, placed at a height of about three feet above the centre of the treads, supported on wrought metal or brass standards of sufficient strength, securely bolted to the treads or risers of the stairs; and at the head of each flight of stairs, and on each side of the landing, the post or standard shall be at least six feet in height, and the rail shall be secured to the post.

SECT. 103. The width of all stairs shall be measured in the clear between the hand-rails.

Width of stairs.
1885, §74, § 123.
1907, §50, § 108.

No winding or circular stairs shall be permitted.

SECT. 104. No coil or radiator or floor register shall be placed in any aisle or passageway used as an exit; but all such coils and radiators may be placed in recesses formed in the wall or partition to receive the same.

Radiators forbidden in passageways.
Sprinklers.
1885, §74, § 124.
187.
1892, §19, § 94,
104.
1907, §50, § 104.

No boiler, furnace, engine or heating apparatus, except steam, hot water or hot air pipes or radiators, shall be located under the auditorium or under any passage or stairway or exit of any theatre.

There shall be at least two two-inch high-service standpipes on the stage of every theatre, with ample provision of hose nozzles at each level of the stage on each side, and the water shall be kept turned on during the occupation of the building by an audience. The said pipes shall in no case be sealed, and shall have two gates, one above the other, with a proper test or waste valve; the lower gates to be kept open at all times. The proscenium opening of every theatre shall be provided with a two and one half inch perforated iron pipe, or equivalent equipment of automatic or open sprinklers, so constructed as to form, when in operation, a complete water curtain for the whole proscenium opening, and there shall be for the rest of the stage a complete system of fire apparatus and perforated iron pipes, automatic or open sprinklers. Such pipes or sprinklers shall be supplied with water by high pressure service, and shall be at all times ready for use.

PLACES OF PUBLIC ASSEMBLY.

SECT. 105. Every building hereafter erected with a hall or assembly-room to contain a public audience of more than eight hundred persons, or with more than one superimposed gallery or balcony, shall be of fireproof construction throughout; except that halls or assembly-rooms, the mean level of the main floor of which is not more than five feet above the grade of the adjacent street, may have roofs of second class construction.

Places of public assembly.
1892, §19, § 90.
1894, §43, § 23.
1907, §50, § 105.

Every building hereafter erected with a hall or assembly-room to contain an audience of more than six hundred persons, the main floor of which is raised more than fifteen feet above the level of the principal street upon which it faces, shall be of fireproof construction throughout.

The capacity of a hall or assembly-room shall be estimated on the basis of six square feet for each person.

If several halls or assembly-rooms are provided in one building, their aggregate capacity shall be considered as determining whether or not the building shall be of fireproof construction, unless the several halls are enclosed by or separated from each other by fireproof walls, with fireproof doors in the same, in which case the building may be of second class construction.

No existing building shall be altered to contain a hall or assembly-room exceeding the foregoing dimensions, unless the whole building as altered shall conform to the provisions of this chapter.

Moving picture shows.
1907, 550, § 106.

SECT. 106. All moving picture shows shall be subject to the provisions of chapter one hundred and seventy-six and of chapter four hundred and thirty-seven of the acts of the year nineteen hundred and five, and of any amendments thereof or additions thereto now or hereafter made.

Exits.
1907, 550, § 107.

SECT. 107. Every building hereafter erected containing a hall or assembly-room shall conform to all the aforesaid requirements as to exits, stairways, exit lights, aisles and seats which apply to theatres, subject to such exceptions as the board of appeal shall approve.

Roof gardens.
1907, 550, § 108.

SECT. 108. Nothing herein contained shall prevent the placing of a roof garden, art gallery, or rooms for similar purposes above a theatre, provided the floor of the same forming the roof over such theatre shall be constructed of fireproof materials, and shall have no covering boards or sleepers of wood. Every roof over such garden or other rooms shall have all supports and rafters of steel, and, if covered, shall be covered with glass or fireproof material, or both.

Exits from roof gardens.
1907, 550, § 109.

SECT. 109. Exits from roof gardens may communicate with stairs leading from the auditorium of the theatre, but they shall be at least four in number, not less than four feet six inches wide, and distinct and separate from each other from roof to street.

Summer theatres.
1907, 550, § 110.

SECT. 110. Summer theatres, if built without the building limits, and located thirty feet distant from any other building or structure or adjoining lot lines, and of no greater seating capacity than seven hundred and fifty persons, and not more than one story high, without balconies or galleries may be constructed as follows:

The auditorium, without a cellar or basement, with open sides of double the number of exits as hereinbefore provided, opening directly into the surrounding courts or gardens at the grade level, and the adjoining dressing rooms, may be of wooden construction, but the stage shall be enclosed in brick walls not less than twelve inches thick, or shall be plastered on metal lathing throughout: *provided*, that the openings leading to the dressing rooms shall be provided with fire-doors.

Otherwise, all protective features and arrangements shall comply with all previous sections of this chapter.

SECT. 111. All stairs and landings of theatres shall have throughout proper hand-rails on both sides firmly secured to walls or to strong posts and balusters. Stairways twelve feet or more wide shall have one or more intermediate rails not more than eight feet apart and properly supported.

Existing theatres.
1907, 550, § 111.

No boiler, furnace, engine or heating apparatus, except steam, hot water or hot air pipes or radiators, shall be located under the auditorium nor under any passage or stairway or exit of any theatre.

In every theatre there shall be over every exit, on the inside, and over every opening to a fire-escape, on the inside, an illuminated sign, bearing the word "exit" or "fire-escape", respectively, in letters not less than four inches high. The lights for the exit signs, passages, stairs, lobbies, auditoriums, rear of auditoriums, balconies, galleries, and for the balconies and stairs outside the building, shall be so arranged that they can be turned on or off independently of the means provided on the stage or from any part of the building in the rear of the proscenium wall. Every exit sign shall be kept illuminated and every outside balcony and fire-escape shall be kept well lighted during the performance, except outside exits during a performance in the daytime and before sunset.

The exits and openings to fire-escapes of all theatres shall open outward and have fastenings on the inside only. They shall be unfastened during every performance and shall be so arranged that they can easily be opened from within. Plans showing the exits and stairways shall be legibly printed so as to occupy a full page of every programme or play-bill.

No temporary seats or other obstructions shall be allowed in any aisle, or stairway of a theatre, and no person shall remain in any aisle, passageway or stairway of any such building during any performance.

The proscenium or curtain opening of every theatre shall have a fire-resisting curtain of incombustible material, reinforced by wire netting, or otherwise strengthened. If of iron, or similar heavy material, and made to lower from the top, it shall be so arranged as to be stopped securely at a height of seven feet above the stage floor, the remaining opening being closed by a curtain or valance of fire-resisting fabric. The curtain shall be raised at the beginning and lowered at the end of every performance, and shall be of proper material, construction and mechanism.

There shall be one or more ventilators near the centre and above the highest part of the stage of every theatre, of a, combined area of opening satisfactory to the building commissioner, and not less than one tenth of the area of the proscenium opening. Every such ventilator shall have a valve or louver so counterbalanced as to open automatically, and shall be kept closed, when not in use, by a fusible link and cord reaching to the prompter's desk, and readily operated therefrom. Such cord shall be of combustible material, and so arranged that if it is severed the ventilator will open automatically.

There shall be at least two two-inch high-service standpipes on the stage of every theatre, with ample provision of hose nozzles at each level of the stage on each side, and the water shall be kept turned on during the occupation of the building by an audience. The said pipes shall have two gates, one above the other, with a proper test or waste valve; the lower gate to be kept open at all times. The proscenium opening of every theatre shall be provided with a two and one half inch perforated iron pipe or equivalent equipment of automatic or open sprinklers, as the commissioner may direct, so constructed as to form when in operation a complete water curtain for the whole proscenium opening, and there shall be for the rest of the stage a complete system of fire apparatus and perforated iron pipes, automatic or open sprinklers. Such pipes or sprinklers shall be supplied with water by high pressure service, and shall be ready for use at all times.

PLUMBING.

Definition of
plumbing
terms.
1907, 550, § 112.

SECT. 112. The following terms shall have the meanings respectively assigned to them:

"Repair of leaks" shall mean such repairs as are necessary to protect property but do not involve any extensive change in construction.

"Y-branches" shall mean a branch at sufficient angle to direct to flow and prevent backing up.

"Air pipes" or "back air pipes" shall mean air pipes from traps that extend toward the main soil pipe or the outer air and connect with not more than three traps.

"Vent pipes" shall mean general lines of back air pipes connecting with more than three fixtures.

"Drain" shall mean that part of the drainage system of a building extending through basement or cellar to sewer.

"Soil pipe" shall mean that part of the drainage system of a building, of four inches or more internal diameter, between basement or cellar and the highest fixture in the building.

"Ventilation pipe" shall mean the extension of the soil pipe from the highest fixture to and through the roof.

"Surface drain" shall mean a connection with drain in the basement to allow egress of surface water or overflow.

"Fixture" shall mean any receptacle or outlet placed for the purpose of disposing of waste water or other matter, and connecting with the waste, soil or drain pipe of a building.

SECT. 113. No plumber shall engage in or work at the business of plumbing unless he shall first have registered his name and place of business in the office of the commissioner, and no person shall by display of sign or plumbing material, or otherwise, advertise as a plumber unless he shall have been registered or licensed as such. Every master plumber shall conspicuously display his certificate or license within his place of business. Notice of any change in the place of business of a registered or

Registration
of plumbers.
1882, 252, § 2.
1892, 419, § 120.
1907, 550, § 113.

licensed master plumber shall immediately be given by him to the commissioner.

SECT. 114. Every plumber, before doing any work in a building shall, except in the case of repair of leaks, file in the office of the commissioner, upon blanks for that purpose, an application for a permit; and, if required by the commissioner, a plan or sketch of the work to be performed; and no such work shall be done in any building without a written permit from the commissioner.

Notices.
1892, 419, § 121.
1907, 550, § 114.

SECT. 115. The plumbing of every building shall be separately and independently connected outside the building with the public sewer, if such sewer is provided, or with a proper and sufficient private drain or sewer laid outside of the building, and if a sewer is not accessible, with a proper cesspool. Several buildings may have a common sewer connection if such connection is approved by the commissioner and the superintendent of sewers.

Connection
with sewer
or drain.
1871, 280, § 29.
1892, 419, § 122.
1907, 550, § 115.

SECT. 116. Pipes or other fixtures shall not be covered or concealed from view until approved by the commissioner, who shall examine or test the same within two working days after notice that they are ready for inspection. Plumbing shall not be used unless, when roughed in, the wastes, vents and back air pipes and traps are first tested by water or sufficient air pressure in the presence of an inspector, when such testing is practicable.

Inspection and
tests.
1892, 419, §§ 122,
124.
1907, 550, § 116.

SECT. 117. The waste pipe of every independent sink, basin, bath tub, water-closet, slop hopper, urinal or other fixture shall be furnished with a separate trap, which shall be placed as near as practicable to the fixture which it serves. A sink and set of three wash trays may be connected to the house drain through one five-inch round trap, when the outlet of the sink is not over three feet six inches from the nearest outlet from the wash trays; and in such case the trap shall be above the floor. The outlet from each fixture shall enter the trap separately. Not more than four wash bowls or sinks in a continuous line may be connected to the house drain through one five-inch round trap. Two or more fixtures on the same level with not more than two feet of waste pipe and connecting into the soil or waste pipe not more than eighteen inches below the top water line of the trap, shall not require other vent than the continuation of the soil or waste pipe full size for its whole length. Lateral branches of soil or waste pipe, if more than twenty feet in length, shall be extended through the roof undiminished in size. All connections on lead waste and back air pipes and of lead pipes to brass ferrules and soldering nipples shall be full size wiped soldered branch, round or flange joints. Soil and waste pipes shall have proper T-Y or Y branches for all fixture connections. No connection to lead bends for water-closets or slop sinks shall be permitted, except the required back air pipe where a continuous vent is not practicable.

Soil and waste
pipes and
traps.
1892, 419, § 122.
1907, 550, § 117.

Earthenware traps shall have heavy brass floor plates soldered to the lead bends and bolted to the trap flange, and the joint

made gas tight with red or white lead. Rubber washers for floor connections shall not be used.

Traps shall be protected from siphonage or air pressure by special iron or brass air pipes of a size not less than the waste pipes they serve; back air pipes shall not be connected to the trap or branched into the waste pipe, except where a continuous vent is not practicable, but a suitable non-siphon trap may be used without a back air pipe upon the approval of the commissioner. Back air pipes shall enter the waste pipe within eighteen inches from the trap and shall be a continuation of the waste pipe. Lead air pipes may be used only for short connections where they are exposed to view. Air pipes for water-closet traps shall be connected to the highest point or bend of trap, and may be of two-inch bore if for not more than three fixtures and less than thirty feet in length; if for more than three fixtures or more than thirty feet in length they shall be of three-inch bore. Air pipes shall be run as direct as practicable, and if one and one-half inches or less in diameter shall not exceed thirty feet in length. Two or more air pipes may be connected together or with a vent pipe; but in every such case the connection shall be above the top of the fixture. The trap for the upper fixture on a line of soil or waste pipe, if within five feet of the stack in a horizontal line, shall not require a special air pipe, unless the outlet is branched into a stack more than eighteen inches below the top water line of the trap. Diameters of vent pipes shall be not less than two inches for main vents through less than seven stories; three inches for water-closets on more than three floors, and for other fixtures in more than seven stories. All vent pipes shall be increased one inch in diameter before passing through the roof. Vent lines shall be connected at the bottom with a soil or waste pipe or with the drain, in such a manner as to prevent accumulation of rust scale and properly to drip the water of condensation. Offsets shall be made at an angle of not less than forty-five degrees. Soil pipes or iron waste pipes, vents and back air pipes, shall be supported by clamps to the woodwork, iron drive hooks to brick walls, or bolted clamps to iron girders.

All traps, except for water-closets, not provided with special air pipes shall be suitable non-siphon traps and shall have at least a four-inch water seal. Round traps shall be not less than four inches in diameter and eight inches long, and made of eight-pound lead. All trap screws shall be water sealed.

Chemical Laboratories.

Fixtures and waste pipes in chemical laboratories shall be installed in accordance with plans approved by the commissioner.

Stables.

The drainage of stable fixtures shall be constructed according to plans approved by the commissioner.

SECT. 118. In buildings where a series of bath-rooms or kitchens are located directly over each other and have a

Back air pipe
vent.
1907, 550, § 118.

common soil or waste pipe, the back air pipe required shall be a vent line connecting with each outlet branch close to the water-closet connection or outlet from the sink trap, each branch vent to connect to vent line above the top of the highest fixture on each floor, the vent line to connect to main vent line above the top of the highest fixture in the building.

In the case of batteries of water-closets or other fixtures, the special air pipe from each trap may be omitted, provided that the soil or waste pipe, undiminished in size, is continued to a point above the roof or revented into the main soil pipe system above the top of the uppermost fixture.

The commissioner shall prepare explanatory sketches showing the method of construction described in this section.

SECT. 119. All drip or overflow pipes shall be extended to some place in open sight, and in no case shall any such pipe be connected directly with the drain pipe. No waste pipe from a refrigerator or other receptacle in which provisions are stored shall be connected directly with a drain or other waste pipe. The waste pipes from all other fixtures shall be connected directly with a drain pipe. Refrigerator wastes connecting with two or more stories shall be supplied with a trap on the branch for each floor and extended through the roof.

Refrigerator
wastes and
drip pipes.
1893, 418, § 129.
1907, 550, § 119.

SECT. 120. Every water-closet or line of water-closets shall be supplied with water from a tank or cistern, and shall have a flushing pipe of not less than one and one quarter inches in diameter. Privy vaults shall be of brick and cement of a capacity of not less than fifty cubic feet, of easy access, convenient to open and clean, and water tight. The inside shall be not less than two feet from the next lot and from any public or private way.

Water-closets.
1892, 418, §§ 180,
181.
1907, 550, § 120.

SECT. 121. The diameters of soil and waste pipes shall be not less than those given in the following table:

	Inches.
Soil pipes, ...	4
Main waste pipes, ...	2
Main waste pipes for kitchen sinks on five or more floors, ...	3
Branch waste pipes for laundry tubs, ...	1½
Branch waste for kitchen sinks, ...	1½
Branch waste for urinals, ...	1½
No branch waste for other fixtures shall be less than, ...	1½

Size and
weight of
materials.
1907, 550, § 121.

Except that, with the approval of the commissioner, a three inch soil pipe may be used for one water-closet where it is not practicable to use a four inch pipe.

Ferrules, Clean-outs, Etc.

Brass ferrules shall be of the best quality, bell shaped, extra heavy cast brass, not less than four inches long and two and one quarter inches, three and one half inches, and four and one half inches in diameter, and of not less than the following weights:

Diameters.	Weights.
2½ inches, ...	1 pound 0 ounces.
3½ inches, ...	1 pound 12 ounces.
4½ inches, ...	2 pounds 8 ounces.

One and one-half inch ferrules shall not be used.

Soldering nipples shall be of heavy cast brass or of brass pipe, iron pipe size. If cast, they shall be of not less than the following weights :

1½ inches, ...	0 pounds 8 ounces.
2 inches, ...	0 pounds 14 ounces.
2½ inches, ...	1 pound 6 ounces.
3 inches, ...	2 pounds 0 ounces.
4 inches, ...	3 pounds 8 ounces.

Where clean-outs are used, the screw cap shall be of brass, extra heavy, and not less than one eighth of an inch thick. The engaging parts shall have not less than six threads of iron pipe size, and shall be tapered. Clean-outs shall be full size of trap up to four inches in diameter, and not less than four inches for larger traps.

The screw cap shall have a solid square or hexagonal nut, not less than one half inch high, with a least diameter of one and one half inches. The bodies of brass clean-out ferrules shall be at least equal in weight and thickness to the calking ferrule for the same size of pipe.

The use of lead pipes is restricted to short branches of the soil and waste pipes, bend and traps, and roof connections of inside leaders. "Short branches" of lead pipe shall mean not more than

5 feet of 1½ inch pipe.
 5 feet of 1½ inch pipe.
 4 feet of 2 inch pipe.
 2 feet of 3 inch pipe.
 2 feet of 4 inch pipe

The pipe shall be not less than the following average thickness and weight per linear foot :

Diameters.	Thicknesses.	Weights per Linear Foot.	Diameters.	Thicknesses.	Weights per Linear Foot.
1½ inches..		2.50 pounds.	5 inches..	.25 inches..	14.50 pounds.
1½ inches..	.14 inches..	2.68 pounds.	6 inches..	.23 inches..	18.76 pounds.
2 inches..	.15 inches..	3.61 pounds.	7 inches..	.30 inches..	23.27 pounds.
2½ inches..	.20 inches..	5.74 pounds.	8 inches..	.32 inches..	28.18 pounds.
3 inches..	.21 inches..	7.54 pounds.	9 inches..	.34 inches..	33.70 pounds.
3½ inches..	.22 inches..	9.00 pounds.	10 inches..	.36 inches..	40.06 pounds.
4 inches..	.23 inches..	10.66 pounds.	11 inches..	.37 inches..	45.02 pounds.
4½ inches..	.24 inches..	12.34 pounds.	12 inches..	.37 inches..	48.98 pounds.

Brass pipe for soil, waste, vent and back air pipes shall be thoroughly annealed, seamless, drawn brass tubing, of not less than number thirteen Stubbs gauge.

No slip joints or unions shall be used on traps, waste, vents or back air pipes. Threaded connections on brass traps shall be of the same size as pipe threads for the same size of pipe, and shall be tapered. Connections between lead and iron shall be made by brass sleeves or screw nipples wiped to the lead and calked or screwed into the iron.

The following average thicknesses and weights per linear foot shall be used :

Diameters.	Thicknesses.	Weights per Linear Foot.	Diameter.	Thicknesses.	Weights per Linear Foot.
1½ inches....	.14 inches...	2.84 pounds.	4 inches....	.23 inches...	11.29 pounds.
2 inches....	.15 inches...	3.82 pounds.	4½ inches..	.24 inches...	13.06 pounds.
2½ inches....	.20 inches...	6.06 pounds.	5 inches....	.25 inches...	15.37 pounds.
3 inches....	.21 inches...	7.92 pounds.	6 inches....	.28 inches...	19.88 pounds.
3½ inches....	.23 inches...	9.54 pounds.			

Cast Iron Pipes, Etc.

Cast iron pipes shall be uncoated, sound, cylindrical and smooth, free from cracks and other defects, of uniform thickness and of the grade known to commerce as "extra heavy." If buried underground, they shall be coated with asphaltum or red lead.

Pipe, including the hub, shall weigh not less than the following average weights per linear foot :

Diameters.	Weights per Linear Foot.	Diameters.	Weights per Linear Foot.
2 inches.....	5½ pounds.	7 inches (not stock size)...	27 pounds.
3 inches.....	9½ pounds.	8 inches.....	33½ pounds.
4 inches.....	13 pounds.	10 inches.....	45 pounds.
5 inches.....	17 pounds.	12 inches.....	54 pounds.
6 inches.....	20 pounds.		

All joints shall be made with picked oakum and molten lead run full, and be made gas tight. No cement joints nor connections between iron and cement or tile pipe or brick drains shall be made within any building.

Wrought Iron Pipe.

Galvanized wrought iron pipe shall be of not less than the following thickness and weight per linear foot :

Diameters.	Thicknesses.	Weights per Linear Foot.	Diameters.	Thicknesses.	Weights per Linear Foot.
1½ inches....	.14 inches...	2.68 pounds.	6 inches....	.28 inches...	18.76 pounds.
2 inches....	.15 inches...	3.61 pounds.	7 inches....	.30 inches...	23.27 pounds.
2½ inches....	.20 inches...	5.74 pounds.	8 inches....	.32 inches...	28.18 pounds.
3 inches....	.21 inches...	7.54 pounds.	9 inches....	.34 inches...	33.70 pounds.
3½ inches....	.23 inches...	9.00 pounds.	10 inches....	.36 inches...	40.06 pounds.
4 inches....	.23 inches...	10.06 pounds.	11 inches....	.37 inches...	45.02 pounds.
4½ inches....	.24 inches...	12.34 pounds.	12 inches....	.37 inches...	48.98 pounds.
5 inches....	.25 inches...	14.50 pounds.			

The threaded part of the pipe if less than one and one-half inches long, shall be of the thickness and weight known as "extra heavy" or "extra strong."

Fittings on wrought iron vent or back air pipes shall be galvanized, recessed, cast-iron threaded fittings. Fittings for "Plumber's tubing" shall be heavy weight, with sharp threads.

Fittings for waste, soil or refrigerator waste pipes of wrought iron or brass pipe shall be galvanized, cast iron, or brass, recessed and threaded drainage fittings, with smooth interior waterway and threads tapped, so as to give a uniform grade to branches of not less than one-quarter of an inch per foot.

All joints on wrought iron or brass pipe shall be screwed joints made up with red lead, and any burr formed in cutting shall carefully be reamed out.

Drain pipes,
etc.
1885, 374, §§ 98,
99.
1892, 419, § 125.
1898, 297, § 1.
1907, 550, § 122.

SECT. 122. Drain and connecting ventilation pipes, vents and back air pipes shall be of sufficient size, and made of extra heavy cast-iron pipe if underground, and if above ground shall be made of extra heavy cast iron, galvanized wrought iron of standard weight, or of not less than number thirteen Stubbs' gauge brass pipe within the building, except that lead pipes may be used for short connections exposed to view. Cast-iron drains shall extend not less than ten feet from the inside face of the wall, beyond and away from the building.

Drain pipes above ground shall be secured by irons to walls, suspended from floor timbers by strong iron hangers, or supported on brick piers. Proper manholes shall be supplied to reach clean-outs and traps. Every drain pipe shall have a fall of not less than one-quarter inch per foot, and shall be extended from a point ten feet outside the inside face of the wall, unobstructed, to and through the roof, undiminished in size, and to a height not less than two feet above the roof, and not less than one foot above the top of any window within fifteen feet, and not less than eight feet above the roof if the roof is used for drying clothes or as a roof garden. The drain pipe shall be supplied with a Y-branch fitted with a brass clean-out or with an iron stopper, if required, on the direct run, at or near the point where the drain leaves the building. Changes in direction shall be made with curved pipes, and all connections with horizontal or vertical pipes shall be made with Y-branches. Saddle hubs shall not be used. All drain pipes shall be exposed to sight within the building, if such exposure is practicable, and shall not be exposed to pressure where they pass through the wall.

Steam Exhausts, Etc.

No steam, or vapor, or water of a temperature over one hundred and thirty degrees Fahrenheit shall be discharged from any premises into any sewer, drain or catch-basin, nor shall any matter or thing be discharged into any sewer which may tend to cause an obstruction of the public sewer or a nuisance or a deposit therein or any injury thereto.

All high pressure steam boilers shall be connected with a blow-off tank of a capacity not less than thirty per cent. of the largest boiler connected with such tank. The location of and the connections to said blow-off tank shall be subject to the approval of the superintendent of sewers.

No steam exhaust or steam drip, unless it be provided with a cooling tank of a capacity approved by the superintendent of sewers, or unless it be connected with the blow-off tank, shall connect with any drain leading to the sewer. Every blow-off tank shall be supplied with a vapor pipe not less than two inches in diameter, which shall be carried above the roof and above the highest windows of the building.

The superintendent of sewers may require such additional means for cooling the blow-off tanks by the injection of cold water or otherwise as may be necessary to reduce the temperature of the water passing from the blow-off tank so that it shall not exceed one hundred and thirty degrees Fahrenheit.

SECT. 123. Every building from which, in the opinion of the superintendent of sewers, grease may be discharged in such quantity as to clog or injure the sewer, shall have a special grease trap satisfactory to the superintendent of sewers. Every building in which gasoline, naphtha or other inflammable compounds are used for business purposes shall be provided with a special trap, satisfactory to the superintendent of sewers, so designed as to prevent the passage of such material into the sewer, and ventilated with a separate pipe rising to a point four feet above the roof. All non-siphon traps shall be of a type approved by the commissioner. The waste pipe of every wash stand for vehicles shall be provided with a sand box of sufficient capacity.

Special traps.
1892, 419, § 134.
1907, 550, § 123.

The waste pipe from the sink of every hotel, eating house, restaurant or other public cooking establishment, shall be connected to a grease trap of sufficient size, easily accessible to open and clean, placed as near as practicable to the fixture that it serves.

SECT. 124. Rain water leaders when connected with house drains shall be suitably trapped and, within the proposed surface drainage area, shall not be connected at the top of the stack, nor extended down through the interior of the building, except by special permit from the commissioner. Whenever a surface drain is installed in a cellar or basement, it shall be provided with a deep seal trap and back water valve. Drain pipes from fixtures in cellars and basements liable to back flow from a sewer shall be supplied with back water valves.

Roof leaders
and surface
drains.
1892, 419, § 126.
1907, 550, § 124.

HAZARDOUS BUILDINGS AND APPLIANCES FOR POWER AND HEAT.

SECT. 125. No building shall be used for a grain elevator, or for the storage or manufacture of high combustibles or explosives, or for chemical or rendering works, without a permit from the commissioner, and no engine, dynamo, boiler or fur-

Buildings for
hazardous
purposes.
1892, 419, §§ 116,
117, 118, 119.
1897, 175.
1907, 550, § 125.
175 Mass. 357.

nance shall be placed in any building without a permit from the commissioner. Every application for such permit shall be in writing, shall be filed with the commissioner, and shall set forth the character of the building, the size, power and purposes of the apparatus, and such other information as the commissioner may require. The commissioner may, after an examination of the premises described in the application, and after hearing the applicant and any objectors, issue a permit for placing a boiler or furnace on such premises, upon such conditions as he shall prescribe, or he may refuse such permit. If the application is for anything other than a boiler or furnace the applicant shall publish in at least two daily newspapers published in the city of Boston, and on at least three days in each, and, if so directed by the commissioner, shall also post conspicuously on the premises, a copy of the application, and shall deliver copies thereof to such persons as the commissioner may designate.

If no objection is filed with the commissioner before the expiration of ten days after the time of the first publication of notice, or within ten days of the delivery and first posting of the notice, if such delivery or posting is required, the commissioner shall, if the arrangement, location and construction of the proposed apparatus is proper, and in accordance with the provisions of this chapter, issue a permit for the same. If objection is filed, the application shall be referred to the board of appeal, which may, in its discretion, require the deposit by the objector of a reasonable sum as security for the payment of the costs.

After such notice as the board shall order it shall hear the same, and shall direct the commissioner to issue a permit, under such conditions as it may prescribe, or to withhold the same. If the permit is refused, the applicant, and if it is granted, the objectors, shall pay such costs as the board may order.

The commissioner may, from time to time, after public notice and hearing, prescribe conditions on which any or all boilers or furnaces may be maintained in buildings, and, if any person interested objects to such conditions and appeals from his decision establishing the same, the appeal shall be referred to the board of appeal, and thereupon said board shall prescribe the conditions.

SECT. 126. No building adapted for habitation, nor any part thereof, nor the lot upon which it is located, shall be used as a place for the storage, keeping or handling of any combustible article except under such conditions as may be prescribed by the fire commissioner. No such building nor any part thereof, nor of the lot upon which it is located, shall be used as a place for the storage, keeping or handling of any article dangerous or detrimental to life or health, nor for the storage, keeping or handling of feed, hay, straw, excelsior, cotton, paper stock, feathers or rags.

SECT. 127. Every structure and part thereof and appurtenant thereto shall be maintained in such repair as not to be

Storage of
combustibles
regulated.
1871, 280, § 61.
1883, 374, § 142.
1892, 419, § 111.
1907, 550, § 126.

Liability of
owner and
lessee.
1907, 550, § 127.

dangerous. The owner shall be responsible for the maintenance of all buildings and structures. The lessee under a recorded lease shall be deemed the owner under the provisions of this chapter.

SECT. 128. The board of health may by vote limit the number of occupants who shall be permitted to dwell in any building or in any part or parts thereof. They shall cause a copy of any such vote to be served upon the owner of the building, his agent or other persons having the charge thereof. If the owner, agent, or other persons having charge of said building allow or permit more people than are permitted by said vote to occupy the building or any part or parts thereof, said board may order the premises to be vacated, and they shall not again be occupied without the permission of the board. The board may make such further regulations as to overcrowding, ventilation, the construction of water-closets, the lighting of hallways, and the occupation of buildings or parts thereof, not inconsistent with other laws, as they may deem proper. Said board may permit rooms in private stables to be occupied for sleeping purposes by grooms and coachmen.

Limitation of
number of
occupants.
1885, 374, § 142.
1892, 419, § 111.
1907, 550, § 128.

ENFORCEMENT — JURISDICTION IN EQUITY.

SECT. 129. Any court having jurisdiction in equity or any justice thereof shall, upon the application of the city by its attorney, have jurisdiction in equity:

Enforcement
of provisions
of this chapter.
1871, 280, § 11.
1878, 298, § 25.
1885, 374, §§ 5,
145.
1892, 419, §§ 14,
136.
1893, 170.
1894, 257.
1907, 550, § 139.
174 Mass. 476.

To restrain the construction, alteration, repair, maintenance, use or occupation of a building, structure or other thing constructed or used in violation of the provisions of this chapter, and to order its removal or abatement as a nuisance;

To restrain the further construction, alteration, repair, maintenance, use or occupation of a building, structure or other thing, which is unsafe or dangerous;

To restrain the unlawful construction, alteration, repair, maintenance, use or occupation of any building, structure or other thing;

To compel compliance with the provisions of this chapter;

To order the removal by the owner of a building, structure or other thing unlawfully existing, and to authorize the commissioner, with the written approval of the mayor, in default of such removal by the owner, to remove it at the owner's expense.

Any person, the value of whose property may be affected by any decision of the board of appeal, may have the action of said board reviewed by the court by any appropriate process, *provided* that proceedings are instituted within thirty days after the date of such decision.

The person applying for the review shall file a bond with sufficient surety, to be approved by the court, for such sum as shall be fixed by the court, to indemnify and save harmless the person or persons in whose favor the decision was rendered from

all damages and costs which they may sustain in case the decision of said board is affirmed.

In case the decision of the board is affirmed, the court, on motion, shall assess damages, and execution shall issue therefor.

Any person having any duty to perform under the provisions of this chapter may, so far as may be necessary for the performance of his duties, enter any building or premises in the city of Boston.

Jurisdiction of courts.
1907, 550, § 130.

SECT. 130. The municipal court of the city of Boston, concurrently with the superior court, shall have jurisdiction throughout the city of prosecutions and proceedings at law under the provisions of this chapter and also of all provisions of law relative to plumbing and gas-fitting.

Advancement of cases.
1907, 550, § 131.

SECT. 131. Upon the entry of any case brought under the provisions of this chapter, the court shall, at the request of either party, advance the case, so that it may be heard and determined with as little delay as possible.

Nuisance. Penalty.
1871, 280, §§ 60, 62.
1907, 550, § 132.
1885, 374, § 146.
1888, 367, § 5.

SECT. 132. A building or structure which is erected or maintained in violation of the provisions of this chapter shall be deemed a common nuisance without other proof thereof than proof of its unlawful construction, and the commissioner may abate and remove it in the same manner in which boards of health may remove nuisances under the provisions of sections sixty-seven, sixty-eight and sixty-nine of chapter seventy-five of the Revised Laws.

Whoever violates any provision of this chapter, or whoever builds, alters, or maintains any structure or any part thereof in violation of any provision of this chapter shall be punished by a fine not exceeding five hundred dollars.

HEIGHT OF BUILDINGS.

Height of buildings on Copley square.
1893, 452, §§ 1, 2.
174 Mass. 176.
181 Mass. 374.
190 Mass. 541.
188 U. S. 491.

SECT. 133. Any building hereafter to be built, rebuilt or altered upon any land abutting on St. James avenue between Clarendon and Dartmouth street or upon land at the corner of Dartmouth street and Huntington avenue, now occupied by the Pierce building, so called, or upon land abutting on Dartmouth street, now occupied by the Boston Public Library building, or upon land at the corner of Dartmouth street and Boylston street, now occupied by the New Old South Church building, may be built, rebuilt or altered to the height of ninety feet and no more; and upon any land abutting on Boylston street, between Dartmouth street and Clarendon street may be built, rebuilt or altered to the height of one hundred feet, and no more; but such steeples, towers, domes, sculptured ornaments and chimneys as the board of park commissioners may approve may be erected on any such building above the limits hereinbefore prescribed. The provisions of section sixteen of chapter twenty-eight of the Revised Laws so far as they limit the height of buildings shall not be construed to apply to the territory specified and restricted in this section.

SECT. 134. Any part of any building abutting on or within forty-two feet of Bowdoin street between Allston street and Beacon street may hereafter be built, rebuilt or altered to the height of one hundred feet above the highest grade of that part of said Bowdoin street on which the building abuts as such grade has been changed and established by the governor and council, and no higher; and any part of any building on or within ninety-five feet of Beacon street between the Claflin building, so called, and Park street may be built, rebuilt or altered to the height of seventy feet above the highest grade of said Beacon street and no higher; but there may be erected on any such building such chimneys, pipes, water tanks, elevator houses and ornamental features which shall not increase the interior capacity of said building as the governor and council may approve.

Height of
buildings on
parts of
Beacon and
Bowdoin
streets.
1902, 543, § 1.
192 Mass. 486.
193 Mass. 470.

SECT. 135. The city of Boston is and shall continue to be divided into districts of two classes, designated respectively as district A and district B. The boundaries of said districts, which were established by the "Commission on Height of Buildings in the City of Boston" under the authority of chapter three hundred and thirty-three of the acts of the year nineteen hundred and four in such manner that the greater part of the buildings used for business or commercial purposes were included in the district or districts designated A and the greater part of the buildings used for residential purposes or for purposes other than business or commercial were included in the district or districts designated B, shall continue until the fifth day of December in the year nineteen hundred and nineteen. The established boundaries of such parts, if any, of district B as have been designated by the order of the commission acting under the authority of chapter three hundred and eighty three of the acts of the year nineteen hundred and five as those in which buildings may be erected to a height exceeding eighty feet, but not exceeding one hundred feet shall also continue until said day.

Height of
buildings in
districts A
and B.
1904, 333, §§ 1, 2
1905, 383, § 1.
193 Mass. 364,
476.

SECT. 136. In any district designated A, no building shall be erected to a height of more than one hundred and twenty-five feet above the grade of the street, and in any district designated B no building shall be erected to a height of more than eighty feet above the grade of the street, except that within such parts of district B as may have been designated by the commission last named in the preceding section buildings may, subject to the conditions imposed in the order of said commission, be erected to such height exceeding eighty feet, but not exceeding one hundred feet [above the grade of the sidewalk], as said order may have established; and, in accordance with said order, buildings may be erected to a height not exceeding one hundred and twenty-five feet [above the grade of the sidewalk] in that part of said district B which lies within fifty feet of the boundary line between district A and district B, if said boundary line divides the premises affected

Height of
buildings in
districts A
and B.
1899, 457, § 1.
1904, 333, § 3.
1905, 383, §§ 2, 3.
193 Mass. 364,
476.

by such order from adjoining premises which are owned by the same person or persons, and except further that no building shall be erected to a height greater than seventy feet, measured on its principal front within the following described territory, to wit:—beginning at the corner of Beacon street and Hancock avenue, thence continuing westerly on Beacon street to Joy street, thence continuing northerly on Joy street to Myrtle street, thence continuing easterly on Myrtle street to Hancock street, thence continuing southerly on Hancock street and Hancock avenue to the point of beginning. No building shall be erected on a parkway boulevard or public way on which a building line has been established by the board of park commissioners, or by the board of street commissioners, acting under any general or special statute, to a greater height than that allowed by the order of said boards; and no building upon land any owner of which has received and retained compensation in damages for any limitation of height, or who retains any claim for such damages shall be erected to a height greater than that fixed by the limitation for which such damages were received or claimed. The supreme judicial court and the superior court shall have jurisdiction in equity to enforce the provisions of this section and to restrain the violation thereof.

Exemptions
from height
limits.
1904, 333, § 3.
1905, 383, § 4.
193 Mass. 364.

SECT. 137. No limitation of the height of buildings shall apply to churches, steeples, towers, domes, cupolas, belfries or statuary not used for purposes of habitation, nor to chimneys, gas holders, coal or grain elevators, open balustrades, skylights, ventilators, flagstaffs, railings, weather vanes, soil pipes, steam exhausts, signs, roof houses not exceeding twelve feet square and twelve feet high, nor to other similar constructions such as are usually erected above the roof line of buildings, nor to sugar refineries in district A.

Height of
buildings on
Rutherford
avenue.
1907, 416.

SECT. 138. The width of Rutherford avenue in the Charlestown district of the city of Boston, between Chapman street and the Mystic river tracks of the Boston and Maine Railroad crossing the northerly part of said avenue, shall be considered as eighty feet in respect to the height of buildings that may be erected on the southwesterly and westerly side of said avenue, between the points mentioned, so as to permit the erection of buildings to the height of one hundred feet as provided for buildings erected on streets of the width aforesaid in district B by the commission appointed on height of buildings in the city of Boston, under chapter three hundred and eighty-three of the acts of the year nineteen hundred and five.

CHAPTER 37.

CEMETERIES.

SECTION

1. Cemetery trustees to have control of.

SECTION

2. Acquisition of land for cemeteries.

Cemetery
trustees to
have control
of.
1897, 375, § 2.
158 Mass. 509.

SECTION 1. The board of cemetery trustees shall have charge of Mount Hope Cemetery and of all other burial-grounds owned

by or in charge of the city of Boston; shall set apart and appropriate a portion of said cemetery as a public burying-ground for the use of the inhabitants of said city, free from any charge therefor; shall lay out said cemetery in suitable lots or other sub-divisions for family or other burials, with necessary paths and avenues; shall plant and embellish the said cemetery with trees, shrubs, flowers and other rural ornaments; may enclose and divide the same with proper fences; may erect or annex thereto suitable edifices, appendages or conveniences; and may make such by-laws, rules and regulations, not inconsistent with statutes or ordinances, as they may deem advisable and shall perform such other duties relative to such cemetery and said burial-grounds as the city council may from time to time prescribe. All acts and all ordinances of said city relating to Mount Hope Cemetery shall, so far as they are not inconsistent herewith, apply to the cemetery department and the officers in charge thereof.

SECT. 2. The city of Boston is hereby authorized to purchase and hold land, for a public cemetery, in any town in this commonwealth, and to make and establish all suitable rules, orders and regulations for the interment of the dead therein to the same extent that the said city of Boston is authorized to make such rules, orders and regulations, for the interment of the dead, within the limits of the said city; *provided* that the consent of any town, in which the said cemetery is proposed to be located, shall first be obtained for that purpose.

Acquisition of land for cemeteries.
1849, 150.

CHAPTER 38.

COUNTY FINANCES AND CONSTABLES.

SECTION IN GENERAL.

1. City of Boston to provide county buildings.
2. Care of Suffolk county court house.
3. Expense of certain highways not chargeable to Boston.
4. Auditor of Boston to be auditor of Suffolk county.
5. Payment of fines, etc., to city collector.
6. Same subject.
7. Payment of witness fees.

SECTION

8. Fines to be paid over by sheriff to city treasurer.
9. Disposition of fees by clerks of municipal courts.

CONSTABLES.

10. Bonds of constables of Boston.
11. Additional conditions of bonds.
12. Proceedings in suits upon bonds.
13. Copy of bond to applicant.
14. Removal of constables.

IN GENERAL.

SECTION 1. The city of Boston shall provide the public buildings necessary for the use of the county of Suffolk, and pay all county charges except as otherwise elsewhere expressly provided.

SECT. 2. The care, custody and control of the Suffolk county court house shall be in the justices of the supreme judicial court who may, for this purpose, appoint a custodian and such other officers as they may deem necessary, determine their

City of Boston to provide county buildings.
R. S. 4, § 10.
G. S. 17, § 8.
P. S. 22, § 8.
R. L. 20, § 7.
Care of Suffolk county court house.
1294, 453.

term of service and may remove them and appoint others in their place. The compensation of such custodian and other officers shall be fixed by the said justices, and shall be paid by the city of Boston.

Expense of certain highways not chargeable to Boston.
1872, 91,
P. S. 22, § 7.
R. L. 20, § 8.

SECT. 3. No part of any expense incurred by the laying out, widening, alteration, discontinuance, building or repair of a highway, bridge or other way of travel, in the towns of Revere and Winthrop shall be assessed upon the county of Suffolk or the cities of Boston or Chelsea; and no part of any such expense except for Chelsea bridge, incurred in the city of Chelsea shall be assessed upon the county of Suffolk or the city of Boston.

Auditor of Boston to be auditor of Suffolk county.
1879, 256, §§ 1, 2.
P. S. 23, §§ 34, 35.
R. L. 21, § 44.
130 Mass. 486.

SECT. 4. The auditor of accounts of the city of Boston shall be the auditor of the county of Suffolk; and all bills against said county shall be audited and allowed by him prior to payment. He shall be paid by the county of Suffolk not more than eight hundred dollars a year, and, at the same rate for any part of a year, in full for all services rendered by him as county auditor, and for all clerical assistance.

Payment of fines, etc., to city collector.
1891, 236, § 1.
R. L. 221, § 8.

SECT. 5. The clerk of the superior court for the transaction of criminal business for the county of Suffolk, the clerks of the municipal courts in Boston, the sheriff, master of the house of correction or other officer, except those named in the following section, upon receiving fines, fees or other money, in any criminal proceedings, which are to be paid to the county of Suffolk or to the city of Boston shall, before the tenth day of every month, pay over to the collector of said city and account, under oath, for all fines, fees or other money so received during the preceding calendar month, and make the detailed statements now required by law.

Same subject.
1891, 236, § 3.
R. L. 221, § 9.

SECT. 6. The clerks of all courts in the county of Suffolk, except those named in the preceding section, who are required to account to the city of Boston shall on or before the tenth day of each month, pay over to the collector of said city and account, under oath, for all fines, fees and other money received by them in any criminal proceedings during the preceding calendar month which remain after the payments allowed therefrom by law.

Payment of witness fees.
1891, 236, § 2.
R. L. 221, § 10.

SECT. 7. The treasurer of the city of Boston shall pay to the persons who are entitled thereto all witness fees or other money due for services rendered in any of the courts named in section four, or for any of the aforesaid officers, upon presentation to him of a certificate stating the name of the claimant, of the court and of the case, the nature of the service rendered and the amount due therefor, signed by the clerk of the court or by the officer for whom the service was rendered.

Fines to be paid over by sheriff to city treasurer.
G. S. 176, §§ 9, 12.
P. S. 217, §§ 9, 12.

SECT. 8. Fines and forfeitures imposed in criminal prosecutions by the superior court to the use of the commonwealth or to the county of Suffolk or to the city of Boston, and all amounts found to be due on forfeited recognizances, shall, under the direction of the court, be certified by the clerk of

the superior court for the transaction of criminal business for the county of Suffolk to the sheriff of said county. The sheriff or a deputy sheriff shall be authorized to receive such fines and forfeitures, but the sheriff shall, within ten days after the final adjournment of the sitting of the court, pay the same without deduction to the collector of said city and render to him an account, under oath, of all amounts which he has received since the last preceding sitting of the court for fines, forfeitures and forfeited recognizances and the names of the persons from whom they were received and against whom they were awarded. If the sheriff neglects for thirty days to render such account he shall be liable to a penalty of two hundred dollars, which shall be recovered in the manner provided in section thirteen of chapter two hundred and twenty-one of the revised laws.

1890, 218, § 1;
440, § 5.
1891, 416, § 1.
R. L. 221, §§ 2,
11.
2 Gray, 428, 1.
153 Mass. 211.
187 Mass. 14.

SECT. 9. The clerks of the municipal court in the city of Boston shall, on or before the tenth day of each month, account for and pay over to the collector of said city, or to any other officer who is authorized by law to receive the same, the balance due and payable at the end of the preceding month of all money received by them which is payable by law to the county of Suffolk, and shall render to said collector or other officer a detailed account thereof under oath. Whoever violates the provisions of this section shall be punished by a fine of not more than one hundred dollars for each offence.

Disposition of
fees by clerks
of municipal
courts.
1887, 438, § 5.
1890, 216.
R. L. 160, § 61.

CONSTABLES.

SECT. 10. Bonds of constables in the city of Boston shall be payable to and the sureties therein approved by the city treasurer; and no constable in said city shall serve any civil process until he has given and filed such bond in a sum not less than three thousand dollars, with the approval of the mayor and aldermen indorsed thereon.

Bonds of con-
stables of
Boston.
1802, 7.
1860, 147.
1869, 247.
F. S. 23, § 9.
R. L. 26, § 14.
5 Allen, 409.
7 Allen, 387.
103 Mass. 280.
104 Mass. 376.

SECT. 11. Constables of the city of Boston shall, in addition to the usual condition of their bonds, be also bound to the faithful execution of all warrants committed to them by the treasurer and collector of said city.

Additional
conditions of
bonds.
1807, 134, § 8.

SECT. 12. When the condition of any bond which may be given to the treasurer of the city of Boston by any constable of said city for the faithful performance of the duties of his office shall be broken to the injury of any person, such person may cause a suit to be instituted upon such bond, at his own costs, but in the name of the treasurer of the city of Boston, and the like indorsements shall be made on the writ, and the like proceedings be had thereon to final judgment and execution, and the like writs of *scire facias* on such judgment as may be made and had by a creditor on administration bonds given to any judge of probate: *provided, however*, that no such suit shall be instituted by any person for his own use, until such person shall have recovered judgment against the constable, his execu-

Proceedings
in suits upon
bonds.
1814, 165, § 1.
7 Allen, 387.
104 Mass. 376.
104 Mass. 63, 68.
178 Mass. 151,
152.
187 Mass. 461.

tors or administrators, in an action brought for the malfeasance or misfeasance of the constable, or for non-payment of any moneys collected by the said constable in that capacity, or a decree of a judge of probate, allowing a claim for any of the causes aforesaid, and such a judgment or decree, or so much thereof as shall be unsatisfied, with the interest due thereon, shall be the proportion of the penalty for which execution shall be awarded.

Copy of bond
to applicant.
1814, 166, § 2.

SECT. 13. It shall be the duty of the treasurer of the city of Boston to deliver an attested copy of any constable's bond to any persons applying and paying for the same; and such attested copy shall be received as evidence in any case; *provided* nevertheless, that if, in any suit, the execution of the bond shall be disputed, the court may order the treasurer to bring the original bond into court.

Removal of
constables.
1839, 294.
G. S. 19, § 3.
P. S. 23, § 8.
R. L. 36, § 18.

SECT. 14. The mayor, with the consent of the board of aldermen, may, for gross misconduct, remove a constable from office.

CHAPTER 39.

FIRE DEPARTMENT.

IN GENERAL.

SECTION

1. Powers and duties of members of fire department.
2. Same subject.
3. Powers and duties of fire commissioner.
4. Qualifications of firemen in Boston. Placing on list for permanent appointment.
5. Exemption from military or jury duty.
6. Appropriations for the relief of disabled firemen.
7. Fire department to have right of way in streets.
8. Boston protective department to have right of way in streets.

SECTION

9. Membership in charitable association of department.

PENSIONS FOR FIREMEN.

10. Pensions for firemen.
11. Former pensioners eligible to pension under preceding section.
12. Annuity payable to widows of members.
13. Relief of widows, etc., of firemen who have been killed in the performance of duty.
14. Boston firemen's relief fund.
15. Foregoing section applicable to members of protective department.
16. Pensions for members of protective department.

IN GENERAL.

Powers and
duties of
members of
fire depart-
ment.
1825, 52.
1850, 262, § 1.
1855, 266, § 6.
1895, 449, § 9.
104 Mass. 87.

SECTION 1. The city council of the city of Boston may define the powers and prescribe the duties, so far as they are not regulated by statute, of the fire commissioner and other members of the fire department, and, in general, make such regulations in regard to their conduct and government, as they shall deem expedient.

Same subject.
1850, 262, § 3.
1894, 444, § 5.
1895, 449, § 10.
R. L. 32, § 5.
1902, 148.
1903, 365, § 1.

SECT. 2. The fire commissioner or the other officers of the department shall have the same authority in regard to the prevention and extinguishment of fires and the other offices and duties now incumbent upon firewards as are now conferred upon firewards by the Revised Laws or the special acts relating to the city of Boston, now in force. The fire commissioner may, and upon the complaint of a person having an interest in any

building or premises or property adjacent thereto, shall, at all reasonable hours, enter into buildings and upon premises within his jurisdiction and make an investigation as to the presence of combustible materials, or the existence of conditions liable to cause fire. He shall in writing order such materials, if found, to be removed and such conditions, if existing, to be remedied. The owner or occupant of such building or premises may, within twenty-four hours after notice of such order, apply to the deputy chief of the district police, by whom the matter shall be forthwith investigated. Unless he revokes the order, it shall remain in force and be at once obeyed by said owner or occupant, who, if he refuses or neglects to comply therewith, shall be punished by a fine of not less than ten nor more than fifty dollars for each day during which such refusal or neglect continues.

SECT. 3. It shall be lawful for the fire commissioner or other officers of the department to require and compel the assistance of any or all of the inhabitants of the city of Boston, and any other persons, who shall be present as spectators of any fire; and if any person shall disobey the lawful and reasonable command of said commissioner or other officers of said department to aid in extinguishing such fire, or in rescuing property from destruction thereby, he shall be liable to a fine not exceeding twenty dollars.

Powers and duties of fire commissioner. 1817, 171, § 18. 1850, 262, § 3. 1855, 449, § 10.

SECT. 4. Persons five feet five inches in height or over, if otherwise qualified, shall be eligible to appointment in the fire department of the city of Boston. Call members in said department who have served three or more successive years shall, upon application to the civil service commissioners, be placed upon the eligible list for appointment as permanent men without further examination, and may at the discretion of the fire commissioner be appointed at the same salary as permanent men who have served three or more years in said service.

Qualifications of firemen in Boston. Placing on list for permanent appointment. 1856, 256, 424. R. L. 19, § 11.

SECT. 5. All officers and members of the fire department shall be exempt from military duty, or from serving as jurors or constables, during the time of their employment in said department.

Exemption from military or jury duty. 1850, 262, § 4.

SECT. 6. The city of Boston may expend for the relief of firemen disabled in the service of the city any sum not exceeding three thousand dollars annually, in addition to the sums which may be paid for pensions. 1898, 246.

Appropriations for the relief of disabled firemen. 1850, 262, § 5. 1854, 375. 1873, 258.

SECT. 7. The officers and men of the fire department of the city of Boston, with the engines and apparatus thereof, shall have the right of way, while going to a fire upon any alarm thereof through any street, lane or alley in the said city, subject to such rules and regulations as the city council may prescribe. Whoever wilfully and maliciously obstructs or retards the passage of such engines and apparatus while so going to a fire, as aforesaid, shall be punished by imprisonment in the jail not exceeding three months or by fine not exceeding fifty dollars.

Fire department to have right of way in streets. 1873, 374, § 1.

Boston protective department to have right of way in streets.
1874, 61, § 3.
146 Mass. 506.
151 Mass. 215.

SECT. 8. The officers and men of the Boston protective department, with their teams and apparatus, shall have the right of way while going to a fire, through any street, lane or alley, in the city of Boston subject to such rules and regulations as the city council and the fire commissioner may prescribe, and subject also to the rights of the Boston fire department, and any violation of the street rights of the Boston protective department shall be punished in the same manner as is provided for the punishment of violations of the rights of the Boston fire department in the preceding section.

Membership in charitable association of department.
1883, 131, § 1.
1874, 343.

SECT. 9. Every member of the Boston fire department and every member of the Boston protective department shall, at all times, have a right to be admitted a member of the "Charitable Association of the Boston Fire Department"; also all the members of the veteran association of the Boston fire department, who shall have been, for the term of seven successive years, members of said fire department, shall have the right of becoming members of the said "Charitable Association" by producing to the secretary of the association sufficient evidence of membership subscribing to the constitution of the association, and paying to the treasurer such sum, not exceeding five dollars, as the association shall, from time to time, direct; which payment shall be in full for the annual contribution of the current year.

PENSIONS FOR FIREMEN.

Pensions for firemen.
1830, 107, § 1.
1888, 174, § 1.
1891, 404, § 1.
1892, 347, § 1.
1895, 449, § 10.

SECT. 10. The fire commissioner, with the approval of the mayor, shall have power to retire from office in the fire department any member thereof who has become disabled while in the actual performance of duty, or any member who has performed faithful service in the department for a period of not less than fifteen consecutive years, and shall in such case place the member so retired upon the pension roll. Any member may be placed upon the pension roll when it shall be certified to the commissioner in writing by the physician to the board of health, that such member is permanently incapacitated, either mentally or physically, from performing his duties as a member of the department. In case of total disability caused or induced by the actual performance of his duty, the amount of annual pension shall be two-thirds of the annual compensation allowed to men of the grade in which such member served. The pension of members of the permanent force who have served fifteen years shall be an amount not exceeding one-half the annual salary or compensation of the office from which said members are retired. The pension of members of the call force who have served fifteen or more consecutive years shall be one-half the annual salary or compensation of the office from which said members are retired or such further sum as the fire commissioner, with the approval of the mayor, may determine.

SECT. 11. The fire commissioner may, with the approval of the mayor pay to former members of the fire department of the city who, on the sixth day of August in the year eighteen hundred and ninety-two, were on the pension rolls of the city, pensions in accordance with the provisions of the preceding section.

Former pensioners eligible to pension under preceding section.
1892, 347, § 2.

SECT. 12. If any member of the said fire department shall die from injuries received while in the discharge of his duties, and shall leave a widow, or, if no widow, any child or children under the age of sixteen years, a sum not exceeding three hundred dollars may be paid by way of annuity to such widow so long as she remains unmarried, or to any such child or children so long as he or they continue under the age of sixteen years, and the fire commissioner may from time to time order such annuity to be reduced.

Annuity payable to widows of members.
1880, 107, § 2.

SECT. 13. For the purpose of carrying out the provisions of the foregoing sections, the fire commissioner may, with the approval of the mayor, expend such sums as may be specially appropriated therefor by the city council for the relief of widows or children of members of the fire department who have been killed in the execution of their duty, or have died from the effects of injuries received in the execution of their duty. For the payment of the pensions hereinbefore authorized, the fire commissioner may draw, from time to time, upon the city treasurer of Boston any sums which may be specially appropriated therefor by the city council.

Relief of widows, etc., of firemen who have been killed in the performance of duty.
1880, 107, § 3.

SECT. 14. The mayor of the city of Boston for the time being and his successors in office, the fire commissioner of the city of Boston for the time being and his successors in office, shall together continue a body corporate for the purposes of receiving and holding all sums of money, and real and personal estate not exceeding in the aggregate four hundred thousand dollars which may be given, granted, bequeathed or devised to it for the benefit of members of the Boston Fire Department or their families requiring assistance, or for the benefit of any persons or the families of any persons who have been such members, requiring assistance. The property so held shall be known as the Boston Firemen's Relief Fund. The said body corporate shall have authority to manage and dispose of the same and the income thereof according to their best discretion, subject to the provisions of any and all trusts which may be created for the purposes aforesaid. Said corporation shall have all the powers and privileges and be subject to all the duties, restrictions and liabilities set forth in all general laws which now are or may hereafter be in force relating to similar corporations.

Boston Firemen's Relief Fund.
1880, 107, § 4.
1906, 170.

SECT. 15. The provisions of the preceding section shall be held to apply to the members of the Boston protective department, in the same manner, and to the same extent, as to members of the fire department.

Foregoing section applicable to members of protective department.
1881, 22.

SECT. 16. The board of directors of the Boston Protective Department, by a majority vote, shall have authority to retire

Pensions for members of protective

department.
1904, 233.

and place upon a pension roll any employee of the department who is certified in writing by the medical officer of the department to be permanently incapacitated, either mentally or physically, from performing his duties as such employee by reason of injuries received in the actual performance of duty; or any employee who has performed faithful service in the department for not less than twenty consecutive years and who is sixty-five years of age or over. In case such permanent incapacity amounts to total disability, the annual pension shall be two thirds of the compensation which the pensioner was receiving at the time of his retirement, except that a member of the call or auxiliary force shall receive two thirds of the compensation which the men of the regular force were receiving at the time of his retirement. The pension of members of the regular or of the call force who are retired after having served twenty or more years as aforesaid, and after reaching the age of sixty-five years, or who are permanently incapacitated as aforesaid, but not totally disabled, shall be an amount not exceeding one half of their compensation at the time of retirement.

CHAPTER 40.

THE SUPERVISION OF GAS FITTING AND GAS FITTERS.

SECTION

1. Licensing of gas fitters.
2. Examination as to qualifications.
3. Board of examiners.
4. Examination of applicants.
5. Inspectors of gas fitting.
6. Display of license number.
7. Permit requisite for gas piping and fitting.

Licensing of
gas fitters.
1897, 265, § 1.

SECTION 1. No person, firm or corporation shall engage in or work at the business of gas fitting in the city of Boston, either as employer or as a journeyman, unless such person, firm or corporation, has received a license therefor in accordance with the provisions of this chapter. The word "journeyman," as used in this chapter, shall be deemed to mean any one who personally does any gas fitting or any work in connection therewith which would be subject to inspection under the provisions of this chapter.

Examination
as to qualifica-
tions.
1897, 265, § 2.

SECT. 2. Every person, firm or corporation desiring to engage in the business of gas fitting in the city of Boston shall make application therefor to the building commissioner, and shall, at such time and place as may be designated by the board of examiners hereinafter provided for, to whom such application shall be referred, be examined as to his qualifications for such business.

Board of
examiners.
1897, 265, § 3.

SECT. 3. The board of examiners shall consist of the building commissioner, the chairman of the board of health, who shall be, ex officio, members of said board and serve without compensa-

SECTION

8. Regulation of introduction of gas piping.
9. Regulation of placing of gas brackets.
10. Inspection of gas fixtures and appliances.
11. Penalty and revocation of license.
12. Report of board of examiners.

tion, and a third member to be chosen by the board of health, who shall be a practical gas fitter of at least five years' continued practical experience during the years next preceding the date of appointment. Said third member shall be chosen annually for the term of one year from the first day of May, and he shall be allowed a sum not exceeding five dollars for each day of actual service, to be paid from the treasury of the city of Boston.

SECT. 4. Said board of examiners shall, as soon as may be after the appointment of said third member, meet and organize by the selection of a chairman and clerk, and shall then designate the times and places for the examination of all applicants desiring to engage in or work at the business of gas fitting in the city of Boston. Said board shall examine said applicants as to their practical knowledge of gas fitting, shall submit the applicant to some satisfactory form of practical test, and, if satisfied of the competency of the applicant, shall so certify to the building commissioner, who shall thereupon issue a license to such applicant, authorizing him to engage in or work at the business of gas fitting, first requiring him to register in the office of the said building commissioner his name, place of business or residence, license number, date of examination, and in what capacity licensed. In case of a firm or corporation, the examination of one member of the firm, or of the manager of the corporation, shall satisfy the requirements of this chapter. The fee for the license of any employing gas fitter shall be two dollars, and for a journeyman, fifty cents; and said license shall continue in force until revoked or cancelled, but shall not be transferable.

Examination
of applicants.
1897, 275, § 4.

SECT. 5. The building commissioner shall appoint such a number of inspectors of gas fitting as the board of examiners may from time to time determine. Said inspectors shall be practical gas fitters of at least five years' continued practical experience, and shall, before appointment, be subject to an examination before the civil service commissioners. The compensation of said inspectors shall be determined by the building commissioner, subject to the approval of the mayor; and such inspectors shall hold office until removed by said commissioner, with the approval of the mayor, for malfeasance, incapacity or neglect of duty. Said inspectors shall inspect all new work relating to gas fitting in new and in old buildings, the connections and use of such work, and shall report all violations of this chapter or of any act or ordinance relating thereto, which now exists or may be hereafter enacted or ordained, and they shall also perform such other appropriate duties as may be required by the building commissioner.

Inspectors of
gas fitting.
1897, 265, § 5.

SECT. 6. Every licensed gas fitter shall display his license number conspicuously at his place of business.

Display of
license num-
ber.
1897, 265, § 6.

SECT. 7. No building shall be piped or fitted for gas, nor shall any repairs be made in such piping or fittings, nor fixtures placed, unless a permit shall be granted therefor by the building

Permit requi-
site for gas
piping and
fitting.
1897, 265, § 7.

commissioner. Every licensed gas fitter desiring to perform any work relating to piping or fitting a building for gas, or to repair gas piping or fittings, or to place fixtures therein, shall file an application therefor at the office of the building commissioner, giving the correct location, name and address of the owner, the intended use and material of the building, and a full and complete statement of the work proposed and material to be used, and shall, if required by said building commissioner, furnish a plan thereof, which shall be subject to his approval. All materials used and work performed under the provisions of this section shall be subject to such regulations as shall be made by the board of health and the building commissioner.

**Regulation of
introduction
of gas piping.**
1897, 245, § 8.

SECT. 8. No gas pipe which may be introduced into any building shall be let into the timbers, beams or girders, unless the same is placed within thirty-six inches of the end of said timber, beam or girder, and in no building shall the said pipes be let into the timbers, beams or girders, more than two inches in depth. No person shall disconnect or remove any gas meter, except the duly authorized representative of the gas company owning such meter.

**Regulation of
placing of gas
brackets.**
1897, 265, § 9.

SECT. 9. All gas brackets shall be placed at least three feet below any ceiling or woodwork, unless the same is properly protected by a shield, in which case the distance shall not be less than eighteen inches. Nothing in this chapter shall be constructed to affect the operations of any gas company upon its own premises or upon its mains and service pipes.

**Inspection of
gas fixtures
and appli-
ances.**
1897, 265, § 10.

SECT. 10. The board of health of said city, by its inspectors, shall from time to time, as it deems proper, inspect the gas fixtures and appliances in any building and shall make such requirements relating thereto as it deems the public health requires, and the owner of such building shall comply with such requirements.

**Penalty and
revocation of
license.**
1897, 265, § 11.

SECT. 11. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and shall be subject to a fine of not exceeding one hundred dollars for each offence, and if such person has received a license under this chapter his license may be revoked by the building commissioner.

**Report of
board of ex-
aminers.**
1897, 265, § 12.

SECT. 12. The building commissioner shall include in his annual report to the city council a report of the proceedings of the building department under this chapter, and shall include therein a report of the board of examiners appointed under this chapter, giving their proceedings during the year ending on the first day of February.

CHAPTER 41.

HARBOR REGULATIONS.

SECTION

1. Anchorage limits.
2. Regulation of anchorage of vessels in upper harbor.
3. Trim of vessels at wharves.
4. Regulation of warps and lines.
5. Anchor watch and lights at night.
6. Deposit of rubbish in harbor forbidden.
7. Attachment of rafts, etc., to bridges, etc., forbidden.

SECTION

8. Attachment of rafts, etc., to public bridges, etc., forbidden.
9. Speed of steam vessels in harbor regulated.
10. Ballast, taking of, regulated.
11. Taking of gravel from beaches regulated.
12. Boston harbor defined.
13. Fires on Spectacle Island forbidden.

SECTION 1. No vessel which shall cast anchor in the harbor of Boston between India wharf and Gray's wharf shall anchor within five hundred feet of the wharf or pier head line; and no vessel shall anchor between the easterly side of Lamson's wharf and the easterly side of Meridian-street bridge at East Boston within five hundred feet of said line unless for the purpose of hauling in, as soon as practicable, to some wharf in said harbor, or unless compelled to do so by stress of weather, or unavoidable casualty; and, for every offence against either of the foregoing provisions, after having been notified thereof by the harbor master, or by any party aggrieved, the master, commander or owners of such vessel shall be subject to a penalty not exceeding twenty-five dollars.

Anchorage
limits.
1847, 234, § 1.
1877, 116.

SECT. 2. The harbor master shall have authority to regulate the anchorage of all vessels in the upper harbor of Boston, and, when necessary, to order the removal of such vessels, and to cause the same to be removed in obedience to such order at the expense of the master or owner thereof; and if any person shall obstruct said harbor master in the performance of any of his duties as prescribed by this section or of section three of this chapter, or shall refuse or neglect to obey any lawful order made by said harbor master, he shall be liable to a penalty not exceeding fifty dollars for each offence.

Regulation of
anchorage of
vessels in
upper harbor.
1848, 314, § 1.

SECT. 3. The master, commander or owners of every vessel shall, as soon as practicable after having hauled to the end of any wharf that extends to the channel in said harbor, cause her yards to be cockbilled and her jib-boom to be rigged in, so that the said jib-boom may not annoy any other vessel or vessels going in or out of the adjoining docks; and the yards and jib-boom shall be kept so arranged while each vessel lies at the end of the wharf as aforesaid, and until she is preparing immediately to leave her berth; and for every offence against any of the provisions in this section, the master, commander or owners or either of them, of such vessel shall be subject to a penalty not exceeding ten dollars.

Trim of vessels
at wharves.
1847, 234, § 2.
1848, 314, § 3.

SECT. 4. No warp or line shall be passed across the mouth of any slip for the purpose of hauling a vessel by said slip before the vessel shall be within one hundred feet of said slip, if

Regulation of
warps and
lines.
1847, 234, § 4.

the owners or occupants thereof object, unless the harbor master shall have decided it to be necessary; and for every offence against this provision the master commander or owners of such vessel shall be subject to a penalty not exceeding five dollars.

Anchor watch
and lights at
night.
1848, §14, § 4.

SECT. 5. All vessels at anchor in the harbor of Boston shall keep an anchor-watch at all times, and shall keep a clear and distinct light, suspended at least six feet above the deck, during the night; and whenever the provisions of this section shall be violated on board any vessel, the master or owners shall be liable to a penalty of not more than twenty dollars, and shall be held liable to pay all damages that may be occasioned by such violation.

Deposit of rub-
bish in harbor
forbidden.
1837, 229, § 7.
1847, 234, § 8.
1848, §14, § 2.

SECT. 6. No person shall throw or deposit in said harbor, or any part thereof, any stones, gravel, ballast, cinders, ashes, dirt, mud, or other substances, which may, in any respect, tend to injure the navigation thereof; and whoever shall offend against the provisions of this section shall be subject to a penalty not exceeding fifty dollars. Whenever any person on board of any vessel shall violate the provisions of this section, the master or owners of said vessel shall be liable to the penalty herein prescribed as well as the person so offending.

Attachment of
rafts, etc., to
bridges, etc.,
forbidden.
1862, 73, § 1.

SECT. 7. Every person who shall attach or moor any raft, or collection of spars, logs, piles, timber or lumber to any bridge, pier or wharf in the harbor of Boston, longer than ten hours, without the written consent of the owner thereof, shall, for every such offence, forfeit and pay to such owner a sum not less than twenty-five dollars, and five dollars for every successive day during which such attachment or mooring shall be so continued; and shall be further liable for all damages to such bridge, pier or wharf caused by such attachment or mooring, or any continuance thereof, to be recovered by an action of tort.

Attachment of
rafts, etc., to
public bridges,
etc., forbidden.
1862, 73, § 2.

SECT. 8. Every person who shall attach or moor any raft, or collection of spars, logs, piles, timber or lumber to any public bridge in the harbor of Boston for more than ten hours, without the permission in writing of the mayor of Boston, shall be liable to a penalty of not less than twenty-five dollars, and five dollars for every succeeding day during which such attachment or mooring shall be so continued; to be recovered by complaint before the municipal court of the city of Boston.

Speed of steam
vessels in har-
bor regulated.
1872, 16.

SECT. 9. No vessel propelled by steam shall, either in Boston harbor or Charlestown harbor, pass within one hundred yards of any wharf at a greater speed than at the rate of five miles an hour. The master, pilot and engineer of any vessel violating the provisions of this section shall severally be punished by fine not exceeding one hundred dollars. The owner of any vessel violating the provisions of this section shall pay to any person suffering damage thereby the full amount of such damage, to be recovered in an action of tort.

Ballast, taking
of, regulated.
1848, 308.

SECT. 10. The city council of the city of Boston are hereby authorized to establish any ordinances and regulations respecting the weighing and marking of lighters, and other vessels

employed in the transportation of stones, gravel, sand or other ballast, and for the inspection and weighing of such ballast within the city of Boston, including the appointment and compensation of weighers, markers, inspectors or other officers necessary to carry such ordinances and regulations into effect, as they may deem expedient, and may affix penalties for the breach thereof, not exceeding those provided in the sixty-sixth chapter of the Revised Laws. The adoption of any such ordinance or regulations shall supersede the provisions of said chapter within said city, so far as the same shall be inconsistent with or repugnant to said provisions.

SECT. 11. Whoever shall take, carry away or remove, by land or water, any stones, gravel or sand from any of the beaches, headlands or islands within or bordering upon Boston harbor, without the consent in writing of the board of harbor and land commissioners, shall for each offence forfeit and pay for the use of the commonwealth a sum not less than twenty-five dollars or more than two hundred dollars.

SECT. 12. Boston harbor, for the purposes of the preceding section, shall be deemed to include all tide water enclosed by the upland and a line drawn from the outer end of Point Allerton in the town of Hull to the outer end of the outer Brewster island and thence direct to the outer end of Cherry island bar in the town of Revere.

SECT. 13. If any person shall wilfully build a fire on Spectacle island in the harbor aforesaid without the consent of the owner or owners thereof he shall forfeit and pay for each offence to the use of the commonwealth a sum not exceeding one hundred dollars nor less than five dollars.

Taking of gravel from beaches regulated. 1818, 4. 1834, 168, § 1. 1856, 301, § 1. 1892, 358, § 1. 11 Met. 55.

Boston harbor defined. 1836, 301, § 2. 1892, 358, § 2.

Fires on Spectacle island forbidden. 1834, 168, § 2.

CHAPTER 42.

HEALTH REGULATIONS.

SANITARY REQUIREMENTS FOR TENEMENT AND LODGING HOUSES.

SECTION

1. Water-closets for dwelling, etc., houses.
2. Buildings subject to this chapter.
3. Chimneys, construction of, regulated.
4. Storage of deleterious articles regulated.
5. Buildings to be kept clean.
6. Cleansing and whitewashing. Janitors.
7. Notice to board of infectious diseases.
8. Halls to open on external air.
9. Use of underground lodgings regulated.
10. Limit of number of occupants of tenement houses.
11. Name of owner to be posted.
12. Detail of police for board of health.
13. Officers to have access to buildings.
14. Enforcement of preceding sections.
15. Penalties.
16. Board of health may order buildings vacated.
17. Damages.

PASSAGEWAYS.

SECTION

18. Wooden buildings for hospitals.
19. Paving of private ways.
20. Hearing of objections.
21. Enforcement of two preceding sections.
22. Cleansing of passageways.
23. Expense to be paid by owners.
24. Placing of obstructions in public alleys forbidden.

FILLING OF LAND.

25. Filling of land.

SLAUGHTERING ANIMALS.

26. Slaughtering to be done only on premises of association.
27. Association to slaughter all cattle brought to them.
28. Boston board of health to appoint inspectors.
29. To prevent slaughter of animals unfit for food.

SECTION

STABLES.

30. Stables to be authorized by board of health.
 31. Penalty for violation.
 32. Effect of license or authority.

CARE OF TUBERCULOUS PATIENTS.

33. Care of tuberculous patients.

SECTION

UNDERTAKERS.

34. Board of health to license undertakers.
 35. Penalty for acting without license.

URINALS.

36. Public urinals.

SANITARY REQUIREMENTS FOR TENEMENT AND LODGING HOUSES.

Water-closets
for dwelling,
etc., houses.
1885, 352, § 1.

SECTION 1. Every building in the city of Boston used as a dwelling, tenement or lodging house, or where persons are employed, shall have at all times such number of good and sufficient water-closets, earth-closets or privies as the board of health of said city may determine, but the occupants of any two or more of any such buildings may use such closets or privies in common, provided the access is easy and direct; and said board shall not require more than one such closet or privy for every twenty persons.

Buildings
subject to this
chapter.
1885, 352, § 3.
1889, 450, § 3.

SECT. 2. Every building hereafter converted into or used for a tenement house or lodging house shall, in addition to all other requirements of law, conform to the provisions of this chapter, and every such building shall be carefully inspected at least twice a year under the direction of the board of health, and whenever said board has made an order concerning said building a reinspection shall be made within ten days after said board has been informed that the order has been complied with.

Chimneys,
construction
of, regulated.
1885, 352, § 11.

SECT. 3. Every tenement house or lodging house shall have adequate chimneys running through every floor, with an open fireplace or grate, or place for a stove, properly connected with one of said chimneys, for every family and set of apartments; shall have water furnished at one or more places in such house, or in the yard thereof, so that the same may be adequate and reasonably convenient for the occupants thereof; and shall have the floor of the cellar properly cemented so as to be water tight.

Storage of
deleterious
articles, regu-
lated.
1885, 352, § 12.

SECT. 4. No building used for a tenement or lodging house shall be used as a place of storage for any article dangerous to life or detrimental to health, nor shall any horse, cow, calf, swine, pig, sheep or goat be kept in said building.

Buildings to be
kept clean.
1885, 352, § 13.

SECT. 5. Every such building, and the yard, court, passage, area and alleys belonging to the same shall be kept clean and free from any accumulation of dirt, filth, garbage or other refuse matter to the satisfaction of the board of health.

Cleansing and
whitewashing
required. Jani-
tors.
1885, 352, § 14.
1889, 450, § 5.

SECT. 6. The tenant of any lodging house or tenement house shall thoroughly cleanse all the rooms, floors, windows and doors of the house, or part of the house, of which he is the tenant, to the satisfaction of the board of health, and the owner or lessee shall well and sufficiently, to the satisfaction of said board, whitewash or otherwise cleanse the walls and ceilings once at least in every year, in the months of April or May, and

have the privies, drains and cesspools kept in good order and the passages and stairs kept clean and in good condition. Whenever there shall be more than eight families living in any tenement house in which the owner thereof does not reside, there shall be, when required by the board of health, a janitor, house-keeper or some other responsible person, satisfactory to said board who shall reside in said house and have the charge thereof.

SECT. 7. The owner, agent of the owner and keeper of any lodging or tenement house, or part thereof, shall, when any person in such house is sick of fever, or of any infectious, pestilential or contagious disease, and such sickness is known to such owner, agent or keeper, give immediate notice thereof to the board of health, and thereupon said board shall cause the same to be inspected and cleansed or disinfected, at the expense of the owner in such manner as they may deem necessary; and may also cause the blankets, bedding and bedclothes used by any such sick person to be thoroughly cleansed, scoured and fumigated, and, in extreme cases, to be destroyed.

Notice to board
of infectious
diseases.
1885, 382, § 15.

SECT. 8. The halls on each floor of every such building shall open directly to the external air, with suitable windows, and shall have no room or other obstructions at the end unless sufficient light and ventilation is otherwise provided for said halls in a manner approved by the board of health.

Halls to open
on external
air.
1885, 382, § 16.

SECT. 9. No person shall, without a permit from the board of health, let or occupy, or suffer to be occupied, separately as a dwelling or place of lodging and sleeping, any cellar or underground room whatsoever, unless the same be, in every part thereof, at least seven feet in height, measured from the floor to the ceiling thereof; nor unless the same was so let or occupied before the nineteenth day of June in the year eighteen hundred and eighty-five, nor unless the same be, for at least one foot of its height, above the surface of the street or ground adjoining or nearest to the same; nor unless there be, outside of and adjoining the said vault, cellar or room, and extending along the entire frontage thereof, and upwards from six inches below the level of the floor thereof, up to the surface of the said street or ground, an open space of at least two feet and six inches wide in every part; nor unless the same be well and effectually drained, by means of a drain, the uppermost part of which is one foot at least below the level of the floor of such vault, cellar or room; nor unless there is a clear space of not less than one foot below the level of the floor, except where the same is cemented; nor unless there be appurtenant to such vault, cellar or room the use of a water-closet or privy kept and provided as in this chapter required, nor unless the same have an external window-opening of at least nine superficial feet clear of the sash frame, in which window-opening there shall be fitted a frame filled in with glazed sashes, at least four and a half superficial feet of which shall be made so as to open for the purpose of ventilation, *provided, however*, that in case of an

Use of under-
ground lodg-
ings regulated.
1885, 382, § 17.

inner or back vault, cellar or room let or occupied along with a front vault, cellar or room as a part of the same letting or occupation, it shall be a sufficient compliance with the provisions of this chapter if the front room is provided with a window as hereinbefore provided, and if the said back vault, cellar or room is connected with the front vault, cellar or room by a door and also by a proper ventilating or transom window, and, where practicable, also connected by a proper ventilating or transom window, or by some hall or passage, with the external air: *provided, further*, that in any area adjoining a vault, cellar or underground room there may be steps necessary for access to such vault, cellar or room, if the same be so placed as not to be over, across or opposite to said external window, and so as to allow between every part of such steps and the external wall of such vault, cellar or room a clear space of six inches at least and if the rise of said steps is open: and *provided, further*, that over or across any such area there may be steps necessary for access to any building above the vault, cellar or room to which such area adjoins, if the same be so placed as not to be over, across or opposite to any such external window.

Limit of number of occupants of tenement houses.
1886, 382, § 18.
1889, 450, § 5.

SECT. 10. The board of health may by a vote limit the number of occupants in any tenement or lodging house or in any part or parts of the same, and shall in such case cause a notice stating such number to be affixed conspicuously in such building and served on the owner, agent or person having the charge thereof. If the number is exceeded, said board may order the premises vacated, and they shall not be again occupied until said board shall so permit, upon being satisfied that the vote will be complied with. Said board may make such further regulation as to overcrowding, ventilation and occupation of such houses and the cellars thereof and of buildings where persons are employed, not inconsistent with law, as they deem proper.

Name of owner to be posted.
1886, 382, § 19.

SECT. 11. Every owner and agent or person having charge of a tenement or lodging house shall leave his address with the board of health, and shall have legibly posted on the wall or in the entry of such tenement or lodging house the name and address of such owner and of the agent or person having charge of the same; and service upon parties whose address is out of the city of any notices or papers required by the provisions of the preceding sections or any act relating to the preservation of health, or by any proceedings to enforce any of their provisions, shall be sufficient, if made by sending a copy of such paper or notice through the mail to the address of the person or persons so designated as owner, agent or person having charge of such tenement or lodging house; and service upon parties whose address is in the city by leaving such copy at said address.

Detail of police for board of health.
1889, 450, § 7.

SECT. 12. The police commissioner for the city of Boston shall, upon requisition by the board of health of said city, detail to the exclusive service and direction of said board for enforcing the laws and ordinances relating to the preservation of health,

and to tenement and lodging houses, such number, not exceeding five, of police officers satisfactory to the board as they may desire, and the services of the police officers so detailed shall be paid for by said board; and said officers so detailed shall continue subject to the direction of said board of health until exchanged for others at the request of said board. The police commissioner is hereby authorized and empowered to appoint patrolmen, in number not exceeding five, to fill any vacancies in the police force in the city which may be caused by the detailing of officers as provided in this section.

SECT. 13. Every officer of the board of health, and every officer upon whom any duty or authority is conferred, shall have free access to every part of any lodging or tenement house, when required, in the proper execution of the duties of his office.

Officers to have access to buildings.
1885, 382, § 20.

SECT. 14. Any court having equity jurisdiction may, on the application of the board of health, by any suitable process or decree in equity enforce the provisions of the preceding sections of this chapter, and may, on such application, issue an injunction to restrain the use or occupation of any building or structure in the city of Boston erected, altered, or used in violation of law.

Enforcement of preceding sections.
1885, 382, § 21.

SECT. 15. Any person violating any provisions of the preceding sections of this chapter shall be punished by a fine not exceeding one hundred dollars, or by confinement in the house of correction not exceeding sixty days.

Penalties.
1885, 382, § 22.

SECT. 16. Whenever the board of health of the city of Boston shall be of opinion that any building or any part thereof in said city is infected with contagious disease, or by reason of want of repair has become dangerous to life, or is unfit for use because of defects in drainage, plumbing, ventilation, or in the construction of the same, or because of the existence of a nuisance on the premises which is likely to cause sickness among its occupants, said board may issue an order requiring all persons therein to vacate or cease to use such building or part thereof stated in the order, for reasons to be stated therein as aforesaid. Said board shall cause said order to be affixed conspicuously to the building or part thereof, and to be personally served on the owner, lessee, agent, occupant or any person having the charge or care thereof; if the owner, lessee or agent cannot be found in the said city, or does not reside therein, or evades or resists service, then said order may be served by depositing a copy thereof in the postoffice of said city, postpaid and properly inclosed and addressed to such owner, lessee or agent at his last known place of business or residence. Such building or part thereof shall be vacated within ten days after said order shall have been posted and mailed as aforesaid, or within such shorter time, not less than forty-eight hours, as in said order may be specified, and said building shall be no longer used; but whenever said board shall become satisfied that the danger from said building or part thereof has ceased to exist, or that said building has been

Board of health may order buildings vacated.
1897, 219, § 1.
1899, 322.
192 Mass. 346.

repaired so as to be habitable, it may revoke said order. Whenever, in the opinion of the board of health, any building or part thereof in said city is because of age, infection with contagious disease, defects in drainage, plumbing or ventilation, or because of the existence of a nuisance on the premises which is likely to cause sickness among its occupants, or among the occupants of other property in said city, or because it makes other buildings in said vicinity unfit for human habitation or dangerous or injurious to health, or because it prevents proper measures from being carried into effect for remedying any nuisance injurious to health, or other sanitary evils in respect of such other buildings, so unfit for human habitation that the evils in or caused by said building cannot be remedied by repairs or in any other way except by the destruction of said building or of any portion of the same, said board of health may order the same or any part thereof to be removed; and if said building is not removed in accordance with said order, said board of health shall remove the same at the expense of the city.

Damages.
1897, 219, § 2.

SECT. 17. The city of Boston shall pay the damages sustained by the owner of the building by the destruction of the same, or part thereof, as determined on agreement between said board of health and said owner, and if they cannot agree, the same shall be determined by a jury of the superior court for the county of Suffolk on petition of said owner or board within one year after said destruction, in the same manner as damages are determined for the taking of land in laying out streets and highways in the city of Boston.

Wooden buildings for hospitals.
1873, 4.
1895, 449, § 24.

SECT. 18. The city of Boston is hereby authorized to erect, under directions of its board of health and building commissioner any wooden buildings within the city for hospital purposes, the same to remain only so long as said board deems it necessary; *provided*, that every such hospital shall be constantly guarded outside by a competent force of at least three of the police of said city.

PASSAGEWAYS.

Paving of private ways.
1894, 119, § 1.

SECT. 19. Whenever the board of health of the city of Boston shall adjudge that the public health requires and shall order that the surface of any private passageway in said city shall be paved or otherwise provided with a road bed, the owners of said private passageway shall forthwith pave or lay said road bed in accordance with said order and in a manner and with materials satisfactory to said board.

Hearing of objections.
1894, 119, § 2.

SECT. 20. In case of objection by any owner of property to the paving of such private way that may be so ordered, the board of health, or a majority thereof, shall view the premises, and, if so desired, give a hearing to parties interested.

Enforcement of two preceding sections.
1894, 119, § 3.

SECT. 21. Any justice of any court having jurisdiction in equity may, on the petition of the board of health of said city, enforce the provisions of the two preceding sections by any proper process or decree.

SECT. 22. Whenever the owners of unoccupied lands in the city of Boston or of estates situated on a private passageway therein, neglect for one week after being notified by the board of health of said city, to clean and put in healthful condition such lands or passageway, said board may at the expense of such owners enter upon and clean and put in good condition such lands or passageway.

Cleaning,
etc., of pas-
sageways, etc.
1897, 186, § 1.

SECT. 23. Any expense occasioned by the doing of the work aforesaid upon any unoccupied lands shall be paid by the owners of such lands, and, if occasioned by the doing of the work on a passageway, shall be paid by the owners of the estates abutting upon such passageway in proportion to the number of linear feet thereof so abutting, and shall be a lien upon such estates from the time of the passage of the order aforesaid until the same is paid, and may be included and made a part of the taxes of such estate, and be collected in the same manner and with and as a part of such other taxes.

Expense to
be paid by
owners.
1897, 186, § 2.

SECT. 24. Whoever drops or places and suffers to remain in any public alley any snow or ice, or any rubbish or obstruction of any kind, shall be fined not exceeding fifty dollars for each offence.

Placing of
obstructions in
public alleys
forbidden.
1898, 298, § 3.

FILLING OF LAND.

SECT. 25. Whenever the board of health of the city of Boston shall adjudge that the public health requires, and shall order that any lands in said city not bordering immediately on tide water be filled to the grade of eleven feet above mean low water, the owners of said land shall forthwith fill the same in accordance with said order and in a manner and with material satisfactory to said board. Any justice of any court having jurisdiction in equity may, on the petition of the board of health of said city, enforce the provisions of this section by any proper process or decree.

Filling of land.
1893, 343.
176 Mass. 97.

SLAUGHTERING ANIMALS.

SECT. 26. The business of slaughtering shall not be conducted within the limits of the city of Boston, except upon the premises of the Butchers' Slaughtering and Melting Association in said city.

Slaughtering
to be done only
upon premises
of association.
1876, 144, § 2.

SECT. 27. The said association shall, within a reasonable time, slaughter all cattle, sheep and calves which may be brought to their premises for that purpose by persons not occupying tenements therein, whenever the accommodations under their control on said premises will permit. They shall also prepare the meat and other products of such animals for the market. They may charge, in addition to the offal from said animals, such price per head as may be mutually agreed upon; and in case of disagreement as to price, the same shall be fixed by the board of health of the city of Boston.

Association to
slaughter all
cattle, etc.,
brought to
them.
1876, 144, § 3.

SECT. 28. Said board of health of the city of Boston is authorized to appoint one or more inspectors, to see that the rules and regulations for the conduct of the business of the

Boston board
of health to
appoint
inspectors.
1876, 144, § 4.

association for the time being are fully obeyed by said association and their tenants, and also to see that none but healthy animals are slaughtered; the salary or salaries of said inspector or inspectors to be established by the city council of said city of Boston. The said inspector or inspectors shall at all times have access to the premises of said association and any building thereon, and also to the premises, yards or cars of any railroad company within the city of Boston, for the purposes of examination, inspection and seizure of any meat or animals unfit for human food.

To prevent slaughter of animals unfit for food.
1876, 144, § 5.

SECT. 29. Said board of health of the city of Boston is authorized to make whatever regulations may seem to them fit in order to prevent the slaughter and sale of animals unfit for human food.

STABLES.

Stables to be authorized by board of health.
1810, 124, § 1.
1814, 74, 156.
1860, 109.
1869, 369, § 1.
1889, 89, § 1.
1897, 300, § 1.
1 Gray, 163.
187 Mass. 236.

SECT. 30. No person shall occupy or use any building in the city of Boston for a stable unless such use is authorized by the board of health of said city, and in such case only to the extent so authorized, *provided* that this section shall not prevent any such occupation and use authorized by law on the eighth day of March in the year eighteen hundred and eighty-nine, to the extent so authorized.

Penalty for violation.
1810, 124, § 2.
1869, 369, § 2.
1889, 89, § 2.

SECT. 31. Any person violating any provision of the preceding section shall be liable to a fine not exceeding five dollars for each and every day that such violation continues, and any court having jurisdiction in equity may restrain such use and occupation.

Effect of license or authority.
1897, 300, § 4.

SECT. 32. In any case in which a person has been or shall hereafter be granted a license or other authority to use a stable on any land in the city of Boston, such authority shall be construed to mean a license or authority to any person thereafter occupying the land, to occupy and use a stable on such land until otherwise ordered by the board of health of said city.

CARE OF TUBERCULOUS PATIENTS.

Care of tuberculous patients.
1906, 189.
1907, 248.

SECT. 33. The trustees of the hospital for consumptives in the city of Boston, pending the erection of said hospital, are authorized to hire not more than one hundred beds in private hospitals, and to pay not more than eight dollars a week each for the same, for the use of needy tuberculous patients who are residents of the said city.

UNDERTAKERS.

Board of health to license undertakers.
1816, 44, § 8.
1890, 210.

SECT. 34. The board of health of the city of Boston shall in each year license for a term of one year, beginning with the first day of May, a suitable number of persons to take charge of the funeral rites preliminary to the interment of a human body, and may establish reasonable regulations for the government of

said undertakers and for the fees to be paid for their services; and no person shall engage in the business of an undertaker except persons so licensed.

SECT. 35. Any person not licensed, as above provided, who engages in the business of an undertaker, or who, being so licensed, violates any of the regulations established by said board of health as hereinbefore provided, shall, on conviction thereof, be punished by a fine not exceeding fifty dollars for each offence.

Penalty for acting without license.
1390, 210, § 2.

URINALS.

SECT. 36. The city of Boston shall have power to erect and maintain urinals for public use in any street, way, court, public square, common or common land, in said city, and likewise in the public garden, so called, lying to the eastward of Arlington street therein. And any owner of land who suffers any injury in his property by reason of the construction of any urinal as aforesaid, may, at any time, within one year after the construction is commenced, apply to the superior court for the county of Suffolk for assessment of his damages by a jury, and have his damages ascertained in the manner provided where land is taken in laying out highways.

Public urinals.
1878, 65.
180 Mass. 170.

CHAPTER 43.

INSANE PERSONS AND THEIR CARE AND TREATMENT.

SECTION

1. Commitment of insane persons.
2. Admission of patients who are not paupers.
3. Treatment of recent insane.
4. Notice of applications for commitment.

SECTION

5. Applications for commitment of feeble-minded persons.
6. Discharge of insane persons.
7. Care of insane persons after discharge.
8. Hospitals in Boston to continue under existing acts.

SECTION 1. Either of the judges of probate for the county of Suffolk or a justice of a police, district or municipal court in said county, except the municipal court of the city of Boston, may commit insane persons who have their settlement in the city of Boston to the Boston insane hospital in all cases in which courts and magistrates are authorized by law to commit insane persons to an insane hospital.

Commitment of insane persons.
1839, 131, § 5.
1840, 79, § 1.
1857, 802.
1897, 395, §§ 1, 4.
1897, 451.
1904, 459.
1905, 447.

SECT. 2. The city of Boston, by and through the agency of the insane hospital trustees, may admit into the Boston insane hospital, as patients, insane persons who are not paupers, upon such terms and conditions, and for such compensation, as may, from time to time, be fixed by the city council.

Admission of patients who are not paupers.
1857, 281.
1897, 395, 451.

SECT. 3. The insane hospital trustees shall not commit to, or detain in, any almshouse, private dwelling or other place, without remedial treatment, an insane person whose insanity has continued for less than twelve months. Within seven days after the admission or discharge of an insane person in the care

Treatment of recent insane.
1886, 319, § 3.
1890, 414, § 2.
1897, 451.
R. L. 87, § 50.

of said trustees to or from any almshouse, private dwelling or other place, the institutions registrar shall report in writing such admission or discharge to the state board of insanity. All persons suffering from recent insanity shall have the opportunity of medical treatment in a hospital or asylum under the direction of a physician qualified according to the provisions of section thirty-five of the Revised Laws, if they or their friends so desire.

Notice of applications for commitment.
1840, 79, § 2.
G. S. 37, § 9.
1862, 223, § 4.
P. S. 87, § 14.
1892, 53.
R. L. 87, § 34.

SECT. 4. Any person who shall apply for the commitment of an insane person under the provisions of the first section of this chapter shall first give notice in writing to the institutions registrar and to the chairman of the insane hospital trustees of his intention to make such application; and satisfactory evidence that such notice has been given shall be produced to the courts or magistrates named in said section one at the time of making such application. And said courts or magistrates may order any further notice of such application to be given to the person complained of, or to any other person or persons in his behalf as they shall deem to be necessary or reasonable.

Applications for commitment of feeble minded persons.
1884, 88.
1886, 298, § 6.
R. L. 87, § 119.

SECT. 5. A person who intends to apply for the commitment of a feeble-minded person who resides in Boston under the provisions of section one hundred and eighteen of chapter eighty-seven of the Revised Laws shall first give notice in writing to the institutions' registrar or to the chairman of the insane hospital trustees. Satisfactory evidence that such notice has been given shall be produced to the judge, and shall accompany the order of commitment.

Discharge of insane persons.
1839, 131, § 7.
1840, 79, § 3.
1897, 336, 451.

SECT. 6. Any person committed to the Boston insane hospital by any of the courts as aforesaid may at any time be discharged therefrom by the insane hospital trustees whenever the cause of confinement shall have ceased to exist, or when, in the opinion of said trustees, such discharge would be for the benefit of the person so confined, or when, in their opinion, such person would be comfortably supported by any parent, kindred, friends, master or guardian. And said trustees, whenever in their opinion such insane person can in such manner be more comfortably provided for, and the safety of the public will not be endangered thereby, may provide for his custody and support in other places than in said hospital, he still continuing subject to the orders and directions of said trustees.

Care of insane persons after discharge.
1886, 319, §§ 1, 2, 4.
1897, 451.
R. L. 87, § 100.

SECT. 7. Upon the discharge of an insane person from the Boston insane hospital, the insane hospital trustees shall have the legal custody of his person, and may make provision for his maintenance and treatment at such asylum, almshouse, private dwelling or other place as they consider expedient. But no insane person who has sufficient property or friends able and willing to support him shall be subject to the control of the insane hospital trustees as a pauper, or be restrained under their authority except by a decree of court for sufficient reasons which shall be stated therein.

SECT. 8. The hospitals now or hereafter established and maintained by the city of Boston for the board, care and treatment of the insane, and all insane persons who have a settlement in said city and are cared for in said hospitals shall be excepted from the operation of chapter four hundred and fifty-one of the acts of the year nineteen hundred, relative to the care of the insane by the state board of insanity and to establish the state colony for the insane, and shall be and remain under the operation of the acts existing on the eleventh day of July in the year nineteen hundred, relating to insane persons; and the bills for the board, care and treatment of patients in said hospitals at the rate of three dollars and twenty-five cents per week, or as hereafter fixed by the legislature, shall be paid by the commonwealth, except the bills of patients who, or whose kindred bound by law to support such patients, are of sufficient ability to pay for such board, care and treatment as determined by the board having charge of said hospitals.

Hospitals in Boston to continue under existing acts. 1900, 451, § 2. 1903, 321.

CHAPTER 44.

MARKETS.

SECTION

1. Land taken for markets to be used for no other purpose.
2. Extension of market limits.

SECTION

3. Damages, how determined.
4. Occupation of streets in market limits.

SECTION 1. The land taken by the city council of the city of Boston by virtue of chapter one hundred and forty-eight of the acts of the year eighteen hundred and twenty-three relative to the extension of the limits of Faneuil hall market shall never be used for any other purposes than those described in said act without the previous consent of the legislature being obtained therefor.

Land taken for market to be used for no other purpose. 1823, 148, § 1.

SECT. 2. The board of street commissioners of the city of Boston, with the approval of the mayor, may in the manner prescribed for laying out highways in said city, from time to time, extend the market limits of said city to the extent which they may deem to be advisable, and may take land therefor in the manner provided for taking land for highways in said city, whether such land is at the time of taking used as a highway or for any other public purpose.

Extension of market limits. 1896, 370, § 1.

SECT. 3. Any person whose land is taken under the provisions of the preceding section shall have his damages incurred thereby paid by said city, and may have such damages determined in the manner provided for the determination of damages for taking land for highways in said city; and judgment shall be entered and execution shall issue for the prevailing party, as in civil cases.

Damages, how determined. 1896, 376, § 2.

Occupation of
streets in
market limits.
1907, 584, § 8.

SECT. 4. Requirements and prohibitions contained in sections thirty to thirty-eight, inclusive, of chapter fifty-one of this consolidation, or elsewhere, to the contrary notwithstanding, it shall be lawful to occupy, without license or fee, places in the streets, not including sidewalks, within the limits of Faneuil Hall Market, as the same are or may be defined in the ordinances of the city of Boston, and other market limits added under authority of chapter three hundred and seventy-six of the acts of the year eighteen hundred and ninety-six, for the sale from wagons or other vehicles of fresh provisions and perishable produce: *provided*, that the same are the product of the farm of the person offering them for sale, or of a farm within ten miles of the residence of such person; or are to be sold at wholesale only by the party offering the same for sale on commission, for, or as agent for, some person or persons not residing or having a usual place of business within eight miles of said market; or are meats to be sold at wholesale only by the person who slaughtered the animals of which the same were a part. Such sales shall be lawful only on days on which Faneuil Hall Market is open. Nothing contained in this section shall be construed to repeal or prevent reasonable rules of police, needful for the decorum, convenience and good order of the market, and of those who buy and sell therein.

CHAPTER 45.

PARKS AND PUBLIC GROUNDS.

IN GENERAL.

SECTION

1. Taking of lands for parks.
2. Estimate of damages.
3. Fee of lands taken to vest in city.
4. Assessments for benefits and limit of time for.
5. Revision of betterment assessments.
6. Assessments to constitute a lien on realty.
7. Assessment of betterments by a jury.
8. Assessments on leaseholds to be paid by owners.

CHARLESBANK.

9. Extensions from water line of park prohibited.

CHARLES RIVER WALL OR EMBANKMENT.

10. Charles river embankment.
11. Taking of land for Charles river embankment.
12. Apportionment of cost of construction of embankment and park.

CHESTNUT HILL PARK.

13. Care of Chestnut Hill park.
14. Sale of land in said park.
15. Application of preceding sections.

COLUMBIA ROAD.

SECTION

16. Columbia road.

COMMONWEALTH PLAYGROUND.

17. Commonwealth playground.

COPLEY SQUARE.

18. Copley square.
19. Land to revert to commonwealth, when.

SCIGLIANO PARK.

20. Scigliano park.

MARINE PARK.

21. Marine park.
22. Land to be used solely for a public park.

OPEN SPACES.

23. Taking of land for open spaces.
24. Record of description of land taken.
25. Damages.

PLAYGROUNDS.

26. Purchase of land for playgrounds.
27. Provisions of law applicable.

PARK AND PLAYGROUND REGULATIONS.

28. Connection of public ways and parkways.

SECTION

29. Park commissioners to have control of such public ways.
 30. Penalty.
 31. Control of playgrounds.
 32. Erection of buildings regulated.
 33. Buildings on public garden forbidden.
 34. Streets not to be laid out over parks.
 35. Military bodies excluded from parks.
 36. Jamaica pond, care of.
 37. Lease of buildings for bathhouses, etc.

SECTION

38. Time for filling in tidal waters extended.

OLD STATE HOUSE.

39. Preservation of old state house.
 40. Restoration of old state house.
 41. Expenditures authorized.
 42. Enforcement of three preceding sections.

IN GENERAL.

SECTION 1. The board of park commissioners of the city of Boston shall, within sixty days after the taking of any land under the provisions of section two of chapter twenty-four of this consolidation, file in the registry of deeds for the county of Suffolk a description thereof sufficiently accurate for identifying the same.

Taking of
lands for
parks.
1875, 188, § 4.
181 Mass. 225.

SECT. 2. Said board shall estimate and determine all damages sustained by any persons by the taking of land or other acts of said board in the execution of the powers vested in them to take land for parks and playgrounds; but any party aggrieved by any such determination of said board may have his damages assessed by a jury of the superior court in the same manner as is provided by law, with respect to damages sustained by reason of the laying out of ways in the city of Boston.

Estimate of
damages.
1875, 188, § 5.
181 Mass. 225.
144 Mass. 470.
152 Mass. 168.
156 Mass. 21.
176 Mass. 75.
178 Mass. 526.

SECT. 3. The fee of all lands taken or purchased by said board under the provisions of this chapter and chapter twenty-four of this consolidation shall vest in the city of Boston and said city shall be liable to pay all damages assessed or determined as provided in the preceding section, and all other costs and expenses incurred by said board in the execution of the powers vested in them by said provisions. Said city shall also be authorized to take and hold in trust, or otherwise, any devise, grant, gift or bequest that may be made for the purpose of laying out, improving or ornamenting any parks in said city.

Fee of lands
taken to vest
in city.
1875, 188, § 6.
181 Mass. 225.

SECT. 4. Any real estate in the city of Boston which, in the opinion of said board, shall receive any benefit or advantage from the locating and laying out of a park under said provisions of law beyond the general advantages to all real estate in the city of Boston may, after like notice to all parties interested as is provided by law to be given by the street commissioners of the city of Boston in cases of laying out streets in said city, be assessed by said board for a proportional share of the expense of such location and laying out: *provided*, that the entire amount so assessed upon any estate shall not exceed one-half of the amount which said board shall adjudge to be the whole benefit received by it. No assessment shall be made as provided in the preceding section except within two years after the passage of the order, the execution of which causes the benefit for which the assessment is made.

Assessments
for better-
ments and
limit of time
for.
1875, 188, §§ 7, 8.
127 Mass. 408.
181 Mass. 225.
133 Mass. 321.
159 Mass. 97.
181 Mass. 494.

Revision of
betterment
assessments.
1908, 235.

SECT. 5. The owner of any real estate in the city of Boston on which any betterment assessment authorized by law shall have been made may apply to the board which made the assessment for a revision thereof: *provided*, that any part of the same remains unpaid or shall have been paid under protest and an application to revise an assessment shall be filed with the board within one year after the board gives notice that the assessment has been made; and the board, within two months thereafter, shall revise or refuse to revise the assessment. If a revision is made, any excess of the original assessment over the revised assessment shall be abated by the board; and if any part of such excess shall have been paid under protest, the board shall issue a certificate of the abatement to the treasurer of the city, who shall thereupon repay such part to the person for whom the assessment was paid, or to his legal representative, and charge the same to the appropriation for the work on account of which the assessment was made.

Assessments to
constitute a
lien on realty.
1875, 185, § 9.

SECT. 6. All assessments made under this chapter shall constitute a lien upon the real estate so assessed to be enforced and collected by the city of Boston in the same manner and with like charges for costs and interest as is provided by law for the collection of taxes; and such assessments may be apportioned by said board in like manner as assessments for benefits caused by the laying out of ways may be apportioned by the street commissioners of said city.

Assessment
of betterments
by a jury.
1875, 185, § 10.

SECT. 7. Any party aggrieved by any assessment made by said board as aforesaid, may have the amount of the benefit received by his estate assessed by a jury of the superior court in the same manner as is provided by law with respect to damages sustained by reason of the laying out of ways in the city of Boston.

Assessments
on leaseholds
to be paid by
owners.
1875, 185, § 11.

SECT. 8. When an assessment is made under this chapter upon an estate the whole or any portion of which is leased the owner of the estate shall pay the assessment, and may thereafter collect of the lessee an additional rent for the portion so leased, equal to ten per centum per annum on that proportion of the whole sum paid which the leased portion bears to the whole estate after deducting from the whole sum so paid any amount he may have received for damages to the estate above what he has necessarily expended on such estate by reason of such damages.

CHARLESBANK.

Extensions
from water
line of park
prohibited.
1881, 92, § 2.

SECT. 9. The commonwealth will not, so long as the land lying westerly of Charles street in the city of Boston between the Charles river dam and the Cambridge bridge shall be used solely for the purposes of a public park, authorize or permit any person or corporation to construct any extensions or erections from or contiguous to the water line of said park except with the consent of the board of park commissioners or said city of Boston.

CHARLES RIVER WALL OR EMBANKMENT.

SECT. 10. The Charles River Basin commission shall build a wall and embankment on the Boston side of Charles river beginning at a point in the southwest corner of the stone wall of the Charlesbank, thence running southerly by a straight or curved line to a point in Charles river not more than three hundred feet distant westerly from the harbor commissioners' line, measuring on a line perpendicular to the said commissioners' line at its intersection with the southerly line of Mount Vernon street, but in no place more than three hundred feet westerly from said commissioners' line; thence continuing southerly and westerly by a curved line to a point one hundred feet or less from the wall in the rear of Beacon street; thence by a line substantially parallel with said wall, but at no point more than one hundred feet distant therefrom, to the westerly line of the Back Bay Fens, extended to intersect said parallel line.

Charles river
embankment.
1908, 465, § 11.
1906, 402, § 3.

SECT. 11. The Charles River Basin commission shall acquire in fee or otherwise, by purchase or otherwise, for the city of Boston, for the purpose of a public park, parkway or street, flats and lands covered by tidewater and lying easterly of Charlesgate West by filing in the registry of deeds for the county of Suffolk a description thereof sufficiently accurate for identification, signed by a majority of said commission, and shall construct a public park, or lay out a parkway or street, on the lands so taken: *provided, however*, that nothing herein contained shall authorize the taking for any purpose of Back street, or of any lot or part of any lot on the north side of Beacon street or of any flats or lands covered by tidewater south of Cambridge bridge and lying between the line of the wall the construction whereof is provided for in the preceding section and the Cambridge shore, nor the taking for any purpose but that of a public park of any flats or lands covered by tidewater between said wall and the sea wall as at present existing; and any person whose property is so taken may have compensation therefor as determined by agreement with the commission, or, in the absence of such agreement, the amount thereof may be determined by a jury in the superior court for the county of Suffolk upon petition therefor by the commissioners or by such person, filed in the clerk's office of said court, against the commonwealth, and within one year after the taking, and under the same proceedings and provisions of law, so far as they may be applicable, which apply in determining the value of lands taken for highways under chapter forty-eight of the Revised Laws. And because of the construction and maintenance of the embankment and park as herein provided and the establishment of the northerly line thereof as herein finally fixed and defined as the limit of any embankment or construction northerly from Beacon street between the Charlesbank and the Back Bay Fens, said commission shall, within two years after the completion of

Taking of
land for
Charles river
embankment.
1908, 465, § 12.
1906, 402, § 4.

the park as herein provided and defined, determine the value of the benefit or advantage, from the establishment of said embankment or park, beyond that resulting to all real estate in the city of Boston, to each parcel of real estate east of the Back Bay Fens bordering upon or near said embankment and park as so completed, and shall assess such betterment upon the said estates so benefited; but such assessments shall in no event exceed in the aggregate one half of the actual cost of construction of said embankment and park, exclusive of the cost of the marginal conduit, nor the sum of thirty dollars for each lineal front foot of private ownership. Any person aggrieved by such assessment of betterments may within one year thereafter file a petition in the superior court for the county of Suffolk, and after notice to the city of Boston shall have a trial by jury therein, and costs shall be awarded as provided in section seven of chapter fifty of the Revised Laws.

Apportionment of cost of construction of embankment and park.
1903, 465, § 9.
1906, 402, § 2.

SECT. 12. The commissioners appointed under the provisions of chapter four hundred and nineteen of the acts of the year eighteen hundred and ninety-nine, and amendments thereof, in apportioning the expenses of maintaining the metropolitan park system shall include as part thereof the expense of maintenance incurred under sections one, two, three, four, five, six, seven, eight, eleven and twelve of chapter four hundred and sixty-five of the acts of the year nineteen hundred and three; shall also determine as they shall deem just and equitable what portion of the total amount expended for construction under sections three, four, five and six of said act shall be apportioned to the cities of Boston and Cambridge as the cost of the removal of Craigie bridge and the construction of a suitable bridge in place thereof, and the remainder shall be considered and treated as part of the cost of construction of the metropolitan park system; and shall also determine, as they shall deem just and equitable, what portion of the total amount expended for the cost of construction of the marginal conduit on the south side of the basin and of the embankment and park, provided for by said act, shall be apportioned to the city of Boston as the cost of the construction of said embankment and park, and what portion shall be fixed as the cost of said marginal conduit. The cost of the construction of said embankment and park, as so apportioned, shall be repaid to the commonwealth by the city of Boston with four per cent interest from the date of said apportionment, and bills for the betterments assessed by the Charles River Basin commission under the provisions of said act shall be listed and committed to the collector of taxes of the city of Boston, and shall be collected under the same provisions of law as betterments levied for the construction of highways in the city of Boston. All amounts so received by the city of Boston from said betterments shall be applied first toward paying to the commonwealth said apportionment for the cost of construction of said embankment and park as above provided; and second to the interest and sinking fund require-

ments of the loan of the city of Boston authorized by said act. The city treasurer of Boston shall from time to time on the request of the mayor issue and sell bonds of the city to meet the payments to the commonwealth required by this section, and the bonds so issued shall not be reckoned in determining the statutory limit of indebtedness of the city.

CHESTNUT HILL PARK.

SECT. 13. The board of park commissioners of the city of Boston shall have the custody, care and control of all lands owned by the city of Boston in the territory bounded east by Chestnut Hill avenue, south by the boundary line between the town of Brookline and the city of Boston, west by the boundary line between the city of Newton and the city of Boston, and north by Commonwealth avenue and South street; may take by purchase or otherwise such other lands within said boundary not owned by the commonwealth, as said board with the approval of the mayor may deem desirable for park purposes; and may assume the custody, care and control of all lands within said boundary owned by the commonwealth on the fifteenth day of April in the year eighteen hundred and eighty-nine which the metropolitan water and sewerage board and said board of park commissioners of the city of Boston, with the approval of the mayor, may deem desirable for said purposes. Said board of park commissioners shall have the same powers over any lands placed or taken under the custody, care and control of said board by authority of chapter two hundred and seventy-four of the acts of the year eighteen hundred and eighty-nine, as if said lands had been taken by said board by the exercise of the right of eminent domain given by chapter one hundred and eighty-five of the acts of the year eighteen hundred and seventy-five and acts in amendment thereof or in addition thereto.

Care of Chestnut Hill park.
1899, 274, § 1.

SECT. 14. Said board of park commissioners, when authorized by the city council, may sell any lands owned by the city within the boundaries aforesaid on such terms as said board, with the approval of the mayor, may deem proper, and shall use the proceeds thereof in payment for any lands taken for park purposes under said act.

Sale of land in said park.
1899, 274, § 3.

SECT. 15. The provisions of the two preceding sections shall not be construed as applying to Evergreen cemetery, nor as giving to the board of park commissioners of the city of Boston the custody, care or control of any lands owned by the city of Boston within the boundaries specified in section thirteen of this chapter and used for the purposes of a cemetery, nor as giving to said board the power to take for park purposes any such lands now or hereafter used for cemetery purposes.

Application of preceding sections.
1900, 320.

COLUMBIA ROAD.

SECT. 16. The board of street commissioners of the city of Boston may designate a certain part or parts of the public way

Columbia road.
1897, 394, § 2.

connecting Franklin Park with the Marine Park in said city to be under the charge of the board of park commissioners of said city as a parkway, and said board of park commissioners shall have the charge and control of such parkway as if the same had been placed in its charge under the provisions of sections three, four, five and six of chapter twenty-eight of the Revised Laws.

COMMONWEALTH PLAYGROUND.

Common-
wealth play-
ground.
1891, 421.

SECT. 17. The city of Boston is hereby authorized to use for a public playground that portion of the lands of the commonwealth on the South Boston flats in said city which is bounded by C, D and Cypher streets and Mount Washington avenue, until the board of harbor and land commissioners shall, with the approval of the governor and council, give three months' notice in writing to said city to terminate such use; and thereupon such use shall cease and said city shall have no claim on the commonwealth by reason of such termination or on account of any expenditures on said land. Said city shall not erect or place on said land any building or structure of a permanent character or change the grade thereof, and shall use said land solely as a playground for children and youth which shall be known as the Commonwealth playground. Nothing in this section shall be so construed as to prevent the commonwealth by its agents from entering on or passing over said land, for further improving the same or the adjoining territory or from making permanent disposition of the same or any portion thereof as authorized by law on the eleventh day of June in the year eighteen hundred and ninety-one.

COPLEY SQUARE.

Copley square,
1875, 195, § 2.
1881, 107, § 2.

SECT. 18. The city of Boston may hold, occupy and control the parcel of land situated between Boylston street and Huntington avenue in Copley square, forever, free from rent or charge by the commonwealth upon condition that said parcel shall be forever kept open as a public park by said city, and be subject to the limitations and stipulations relative to lands of the commonwealth on the south of Boylston street, and be reserved from sale forever.

Land to revert
to common-
wealth when.
1875, 195, § 3.
1881, 107, § 2.

SECT. 19. In case said city shall appropriate said parcel of land to any purpose foreign to that for which it is granted, then the commonwealth, after due notice given, may enter upon said parcel and take possession thereof, and the right of said city to the use, occupation and control of said lot shall thereupon cease.

SCIGLIANO PARK.

Scigliano park.
1893, 282, § 1.

SECT. 20. The board of park commissioners shall have the charge of the lands taken and prepared for a park or playground, and known as Scigliano park, as of the other public parks of the city of Boston.

MARINE PARK.

SECT. 21. The board of park commissioners of the city of Boston, subject to the provisions of chapter ninety-six of the Revised Laws excepting so much of section twenty-four of said chapter as requires the payment into the treasury of compensation for the rights and privileges granted in land of the commonwealth, may make such excavation and filling and erect and maintain such structures in and over the area of tide water at or near Dorchester point in South Boston which lies east of the westerly line of Q street, extending southerly into old harbor and northerly to the southerly line of the reserved channel as established by the board of harbor and land commissioners and approved by the governor and council under chapter forty-six of the resolves of the year eighteen hundred and eighty-six, and south of the southerly line of said reserved channel as the board may deem necessary or advisable for the purposes of a public park in accordance with the provisions of chapter one hundred and eighty-five of the acts of the year eighteen hundred and seventy-five.

Marine Park.
1885, 380, § 1.
1887, 427, § 1.
1890, 438, § 1.

SECT. 22. All lands of the commonwealth which are occupied or enclosed under the provisions of the preceding section shall be appropriated to and used solely for the purposes of a public park.

Land to be
used solely for
a public park.
1885, 380, § 2.
1887, 427, § 2.
1890, 438, § 2.

OPEN SPACES.

SECT. 23. Whenever the city of Boston shall have authorized the city treasurer to issue bonds or certificates of indebtedness for the purpose of procuring and preparing for public use open spaces to be used for open-air meetings, playgrounds or similar purposes, in said city, the street commissioners of said city, with the approval of the mayor, may take in fee, by purchase or otherwise, such lands of a total assessed value not exceeding two-thirds of the amount so authorized as shall be determined by said city, and may agree with the persons owning such lands as to the damages to be paid by the city therefor; and said city, by such agency as it may determine, shall expend the balance of the proceeds of the bonds or certificates of indebtedness remaining after such lands have been paid for, in constructing or preparing such lands for use.

Taking of
land for open
spaces.
1892, 293, §§ 1, 3.

SECT. 24. Said commissioners shall, within sixty days from the time when they shall have taken any lands under the preceding section, cause to be recorded in the office of the register of deeds for the county of Suffolk a description of the lands so taken, as certain as is required in a common conveyance of land, with a statement of the purpose for which such lands are taken, said description and statement to be signed by said board.

Record of
description of
land taken.
1892, 293, § 4.

SECT. 25. The damages for the land so taken shall be paid by the city from the proceeds of the said bonds or certificates, and the city or any person whose property is taken, if they can-

Damages.
1892, 293, § 5.

not agree, as hereinbefore provided, upon the damages, may have the same determined in the same manner as damages for property taken in laying out highways in said city are determined.

PLAYGROUNDS.

Purchase of
land for
playgrounds.
1896, 412, § 1.
1899, 279, § 1.

SECT. 26. The board of park commissioners of the city of Boston, for the purpose of establishing a comprehensive system of playgrounds to meet the wants of different parts of said city, is hereby authorized to take by purchase or otherwise, with the approval of the mayor of said city, land for playgrounds in such different locations, not exceeding twenty in number, as they may deem best adapted for the purpose: *provided, however*, that not more than two hundred thousand dollars shall be expended in any one year for said purpose.

Provisions of
law applicable.
1899, 279, § 2.

SECT. 27. The provisions of section two of chapter twenty-four of this consolidation and sections one, two and three of this chapter shall apply to all lands taken by said board under authority of the preceding section.

PARK AND PLAYGROUND REGULATIONS.

Connection of
public ways
and parkways.
1898, 540, § 1.

SECT. 28. The board of park commissioners of the city of Boston may authorize connections to be made of public ways with any boundary road of any public park or with any parkway or boulevard now or hereafter placed under the charge of said board, according to such directions, widths and grades, and with such curb and other surface construction for the parts of such ways situated within the distance of five hundred feet from a park, parkway or boulevard as they shall prescribe, whether any such directions, widths and grades are shown on any plan, or whether any such way has been laid out or constructed under the provisions of chapter three hundred and twenty-three of the acts of the year eighteen hundred and ninety-one and acts in amendment thereof or in addition thereto, or otherwise.

Park com-
missioners to
have control of
such public
ways.
1898, 540, § 2.
1903, 331, § 1.
1905, 205.

SECT. 29. Said board of park commissioners shall have under their direction and control the planting and care of all trees, the placing of seats, standpipes, drinking fountains, and works of art on said boundary roads and parts of ways, and may establish such reasonable rules and regulations relating to the same and to said roads and parts of ways, and to the displaying of advertisements, and to the height and character of fences placed upon lands abutting upon said boundary roads or parts of ways, as they shall deem that the public interests require, and shall have all the powers of the mayor and board of aldermen in relation to trees on said boundary roads or parts of ways.

Penalty.
1898, 540, § 3.

SECT. 30. Any person violating any such rules or regulations shall for each day that such violation continues forfeit and pay a fine not exceeding twenty dollars.

Control of
playgrounds.
1903, 331, § 2.

SECT. 31. The board of park commissioners shall have the same power and control over, and the same power to make

rules relating to, playgrounds now or hereafter taken by said board under authority of law or placed under their charge by the city council of said city, as are or may be vested in them in respect to parks, parkways and boulevards under their control.

SECT. 32. The board of park commissioners may erect in the parks of said city that now are or hereafter may be under their control, except the common, public garden and public squares, structures for the shelter and refreshment of persons frequenting such parks and for other park purposes, of such materials and in such places as in the opinion of the fire commissioner of said city do not endanger buildings beyond the limits of the park. Section twenty of chapter fifty-three of the Revised Laws and chapter five hundred and fifty of the acts of the year nineteen hundred and seven shall not apply to such buildings.

Erection of buildings regulated. 1889, 129.

SECT. 33. The common shall not be leased or sold, and no building shall be erected on the public garden between Arlington and Charles streets except such as are expedient for horticultural purposes, but nothing herein contained shall render it unlawful to erect a city hall on the public garden.

Common not to be sold and buildings on public garden forbidden. 1854, 448, § 39. 1859, 210, § 3.

SECT. 34. No street or way and no steam or horse or electric railroad shall be laid out over any portion of any park located under this chapter, except at such places and in such manner as said board shall approve.

Streets not to be laid out over parks. 1875, 185, § 13.

SECT. 35. No military encampment, parade, drill, review or other military evolution or exercise shall be held on any park laid out as aforesaid, except with the prior consent of said board; nor shall any military body, without such consent, enter or move in military order within the same, except in case of riot, insurrection, rebellion or war.

Military bodies excluded from parks. 1875, 185, § 14.

SECT. 36. The city of Boston to better guard and protect the waters of Jamaica pond and Ward's pond from pollution and intrusion shall, until otherwise provided by statute, have and exercise all the right and control which the commonwealth ever had in said ponds or in either of them.

Jamaica pond, care of. 1892, 371, § 4.

SECT. 37. The board of park commissioners of the city of Boston may lease any lands or buildings under their control to be used for boathouses, refectories and other purposes, and may grant concessions for keeping boats, carriages and other things for the accommodation of the public for such terms and on such conditions as the board, with the approval of the mayor, may deem proper; provided that nothing in this section shall be so construed as to affect in any way any contract or agreement entered into by said board of park commissioners prior to the tenth day of May in the year eighteen hundred and ninety-seven.

Lease of buildings for boat-houses, etc. 1897, 365.

SECT. 38. All excavations, filling and structures in the tide waters of the commonwealth to be made by the city of Boston for the purposes of its public parks and, prior to the fourteenth day of April in the year eighteen hundred and ninety-six, approved by the board of harbor and land commissioners, may

Time for filling in tidal waters extended. 1896, 284.

be continued and carried out to the extent of such approval, whether the time within which they should have been completed had or had not then expired.

OLD STATE HOUSE.

Preservation
of old state
house.
1907, 385, § 1.

SECT. 39. The old provincial state house, situated at the head of State street in the city of Boston, shall be preserved as an historic and patriotic memorial, and no encroachment upon or alteration of said building, or use of the same for business, commercial or transit purposes shall be made except the use of the basement under the eastern end of the building and the space under the western end and beneath the basement floor for transit purposes, as provided by the Boston transit commission; and said commission is authorized and required to rebuild said basement floor, making the same fireproof, all in a manner approved by the governor of the commonwealth and the mayor of Boston: *provided*, that no entrance or stairway to the tunnel or subway adjacent to said building shall be made on or adjacent to the Washington street front thereof, and no part of the walls of said old state house above the grade of the sidewalk shall be disturbed.

Restoration of
old state
house.
1907, 385, § 2.

SECT. 40. The commonwealth of Massachusetts and the city of Boston, at their joint expense, under the direction of the governor of the commonwealth and the mayor of the city, are hereby authorized and required to restore the said old state house as nearly as possible to its provincial condition, and to preserve and maintain it as an historic and patriotic memorial, as provided in the preceding section.

Expenditures
authorized.
1907, 385, § 3.

SECT. 41. The sum of seventy-five hundred dollars may be expended from the treasury of the commonwealth to carry out the provisions of the two preceding sections: *provided*, that the city of Boston appropriates an equal sum for the same purpose.

Enforcement
of three
preceding
sections.
1907, 385, § 4.

SECT. 42. The supreme judicial court shall have jurisdiction in equity upon the petition of the governor, the mayor of Boston, or of ten or more inhabitants of the commonwealth to enjoin or restrain any violation of the provisions of the three preceding sections.

CHAPTER 46.

PENAL AND REFORMATORY INSTITUTIONS.

IN GENERAL.	
SECTION	
1.	Duties of penal institutions commissioner.
2.	Master of house of correction, appointment of.
3.	Compensation of master of house of correction.
DUTIES AS TO PRISONERS.	
4.	Discharges from house of correction.

SECTION	
5.	Permits to rogues, vagabonds, etc., to be at liberty.
6.	Permits to persons imprisoned for drunkenness.
7.	Permits to be at liberty for good conduct.
8.	Revocation of permits.
9.	Refractory prisoners, treatment of.
10.	Release on probation.
11.	Removal of officer using liquor.

SECTION

12. Annual report to prison commissioners.
13. Rules for government of house of correction.

HOUSE OF CORRECTION.

14. House of correction, laws governing.
15. Expense of maintenance by city of Boston.
16. Advances for expenses.
17. Supplies of bedding, clothing, etc.
18. Furnishing of specific rations.
19. Instruction to inmates.

PARENTAL SCHOOL.

20. Supervision of parental school.

SECTION

21. Disposition of vicious inmates.
22. Release from the parental school.
23. Same subject.
24. Revocation of permits.
25. Arrest and return of children.
26. Tuition of children attending school elsewhere.

SUFFOLK SCHOOL FOR BOYS.

27. Reception of boys into Suffolk school for boys.
28. Sentence of boys to Suffolk school.
29. Binding out inmates.
30. Discharge of inmates.
31. Arrest on violation of conditions.

SECTION 1. The penal institutions commissioner of the city of Boston may classify the prisoners in the house of correction, shall cause the rules which are established for the management of the house of correction and for the government of the prisoners therein to be strictly observed, shall examine all accounts of the master relative to the expenses of the institution and shall keep a record of his official proceedings relative thereto.

P. S. 220, § 12. 1889, 245, § 2. 1895, 449, § 15. 1896, 536, § 11. 1897, 395, § 5. R. L. 224, § 11.

SECT. 2. In the county of Suffolk, the penal institutions commissioner shall appoint a master of the house of correction, who shall hold office during the pleasure of said commissioner.

1896, 249, § 1. G. S. 178, § 19. 1895, 241. P. S. 220, § 23. R. L. 224, § 16. 161 Mass. 391.

SECT. 3. The penal institutions commissioner in the city of Boston shall from time to time determine what amount the master of the house of correction for the county of Suffolk shall receive for the board of the persons committed to his custody, and the city council of the city of Boston shall determine what further compensation, in addition to such board, he shall receive for his services.

DUTIES AS TO PRISONERS.

SECT. 4. The penal institutions commissioner, subject to the approval of a justice of the court which imposed the sentence, after six months from the time of sentence, may discharge a person sentenced to the house of correction.

1889, 245. 1895, 449, § 16. 1897, 395, § 5. R. L. 225, § 23.

SECT. 5. If it appears to the penal institutions commissioner of the city of Boston that a prisoner in the house of correction who has been convicted of an offence named in section forty-six of chapter two hundred and twelve of the Revised Laws has reformed, and is willing and desirous to return to an orderly course of life, he may issue to him a permit to be at liberty during the remainder of his term of sentence.

SECT. 6. If it appears to the penal institutions commissioner of the city of Boston that a person who has been imprisoned for drunkenness in the jail, house of correction or other place of confinement has reformed, he may issue him a permit to be at liberty during the remainder of his term of service.

1886, 101, § 4.

1896, 445, § 2.

R. L. 225, § 120.

Duties of penal institutions commissioner.

1787, 54.
1797, 62.
1802, 23.
1824, 28, § 2.
1834, 151, § 6.
R. S. 143, § 11.
1857, 35.
G. S. 178, § 19.
1877, 147.

Master of house of correction, appointment of.
1824, 28, § 3.

Compensation of master of house of correction.
1834, 151, § 9.
R. S. 143, § 14.
1857, 35.
G. S. 178, § 56.
P. S. 220, § 59.
R. L. 224, § 33.

Discharges from house of correction.
1824, 28, § 2.
1857, 35.
G. S. 178, § 18.
P. S. 220, § 67.

Permits to rogues, vagabonds, etc., to be at liberty.
1834, 151, § 8.
R. S. 143, § 13.
G. S. 178, § 17.
1862, 189.
1866, 235, § 5.
P. S. 220, § 66.
1884, 152, § 4.
R. L. 225, § 119.

Permits to persons imprisoned for drunkenness.
1880, 221, § 3;
247, § 2.
P. S. 220, § 68.
1885, 375.

Permits to be at liberty for good conduct. 1857, 284, § 1. 1858, 77. 1859, 108. G. S. 178, § 47. P. S. 222, § 20. 1894, 238. P. S. 225, § 113.

Revocation of permits. R. L. 225, § 128.

Refractory prisoners, treatment of. 1818, 123, § 4. 1822, 148, § 3. 1834, 151, § 13. R. S. 148, § 46. 1857, 85. G. S. 178, § 37. P. S. 220, § 42. 1889, 245, § 2. 1895, 449, § 15. 1897, 395, § 5. R. L. 225, § 39.

Release on probation. 1830, 129, § 6. 1841, 34, §§ 1, 2. P. S. 220, § 69. 1889, 245. 1895, 449, § 15. 1897, 395, § 5. R. L. 225, § 121.

Removal of officer using liquor. 1858, 167, § 2. G. S. 178, § 45. P. S. 220, § 49. 1892, 6, § 4. R. L. 225, § 18.

Annual report to prison commissioners. R. L. 225, § 9.

SECT. 7. Permits to prisoners in the jail and house of correction in the county of Suffolk to be at liberty under the provisions of section one hundred and thirteen of chapter two hundred and twenty-five of the Revised Laws relating to deductions from sentences for good conduct shall be issued by the penal institutions commissioner. 18 Gray, 618. 148 Mass. 168.

SECT. 8. The penal institutions commissioner may, at any time previous to its expiration, revoke any permit to be at liberty which he has issued under the provisions of the three preceding sections.

SECT. 9. If a person who is confined in the house of correction upon a conviction of a crime is refractory or disorderly, or wilfully or wantonly destroys or injures any article or furniture or other property or any part of such prison, the penal institutions commissioner of the city of Boston, after due inquiry, may cause him to be kept in solitary confinement not more than ten days for one offence; and, during such imprisonment, to be fed with bread and water only, unless other food is necessary for the preservation of his health.

SECT. 10. A probation officer in the county of Suffolk may, with the consent of the penal institutions commissioner of the city of Boston, investigate the case of any person who is imprisoned in the house of correction for a misdemeanor upon a sentence of not more than six months, or upon a longer sentence of which not more than six months remain unexpired, for the purpose of ascertaining the probability of his reformation if released from imprisonment. If, after such investigation, he recommends the release of the prisoner, and the court which imposed the sentence, or, if the sentence was imposed by the superior court, the district attorney, certifies a concurrence in such recommendation, the penal institutions commissioner may, if he considers it expedient, release him upon probation, and upon such terms and conditions as he may prescribe, and may require a bond for the fulfilment of such conditions. The surety upon any such bond may at any time take and surrender his principal, and the penal institutions commissioner may at any time order any prisoner released by him upon probation to return to the prison from which he was released.

SECT. 11. The penal institutions commissioner of the city of Boston shall forthwith remove any officer who has been appointed by him to any position of trust or authority in the house of correction and who is known to use intoxicating liquor as a beverage.

SECT. 12. The penal institutions commissioner of the city of Boston shall annually on or before the fifteenth day of October make a report to the prison commissioners of the salaries of prison officers, of the number and cost of support of prisoners and of such other details relative to the management and discipline of the several prisons as the commissioners may from time to time prescribe. If he refuses or neglects to make such report at the time prescribed, or withholds it after such

date, he shall forfeit one dollar for each day's neglect, which shall be deducted from his salary or compensation at the first monthly payment after his default has been reported to the proper auditing or disbursing officer.

SECT. 13. The penal institutions commissioner of the city of Boston shall, from time to time, make, ordain, and establish such rules and orders, not repugnant to the constitution and laws of the commonwealth nor to the rules of the prison commissioners made under the authority of section three of chapter two hundred and twenty-two of the Revised Laws, for the governing and punishing of persons committed to the said house as he shall find needful and proper, which, within one month after they have been made, shall be submitted to the city council, and shall be in force until repealed by said commissioner or until disapproved of by the said city council.

Rules for government of house of correction.
1824, 28, § 2.
1857, 35.
1889, 245.
1896, 449, § 15.
1897, 396, § 6.
R. L. 222, § 3.

HOUSE OF CORRECTION.

SECT. 14. The house of correction within the city of Boston shall be the house of correction for the county of Suffolk, and the buildings constituting said house of correction may be enlarged or others erected therefor as the penal institutions commissioner, with the approval of the mayor, may deem proper. Said house of correction shall be subject to all general and special laws in force on the first day of July in the year eighteen hundred and ninety-six or thereafter enacted relating to the house of correction for the county of Suffolk.

House of correction, laws governing.
1824, 28, § 2.
1896, 396, §§ 9, 10.
151 Mass. 505.

SECT. 15. The expense of keeping and maintaining convicts sentenced to imprisonment in the jail or house of correction, of the keeping of persons charged with or convicted of crime and committed for trial or sentence, and of prisoners committed on mesne process or execution, so long as the fees for their board are paid by the defendant or debtor, plaintiff or creditor shall, in the county of Suffolk, be paid by the auditor of the city of Boston; and no allowance therefor shall be made by the commonwealth.

Expense of maintenance by city of Boston.
1819, 163.
1824, 28, § 3.
1826, 142, § 1.
1834, 151, § 18.
R. S. 143, § 27.
1839, 156.
G. S. 178, § 51.
P. S. 220, § 54.
1886, 266, § 6.
R. L. 224, § 29.
23 Pick. 211.
1 Met. 572, 575.
8 Met. 513.

SECT. 16. The mayor of the city of Boston may order such amounts of money as may from time to time be necessary to be advanced from the city treasury to the master of the house of correction or keeper of the jail for the purpose of providing such tools, materials and other things as may be required for the government, restraint and safekeeping of the convicts. Such amounts shall be expended by the master or keeper under the direction of the mayor, and shall be accounted for by them to him.

Advances for expenses.
1834, 151, § 18.
R. S. 143, §§ 23, 24.
G. S. 178, § 52.
P. S. 220, § 55.
R. L. 224, § 30.

SECT. 17. The keeper of the jail and master of the house of correction in the county of Suffolk shall, at the expense of the county, provide necessary fuel, bedding and clothing for all prisoners in their custody upon charge or conviction of crime against the commonwealth and shall present to the auditor of the city of Boston a full account of their charges so incurred, or

Supplies of bedding, clothing, etc.
1834, 151, § 12.
R. S. 143, § 44.
G. S. 178, § 54.
P. S. 220, § 57.

incurred for necessary furniture for said institutions, which, upon the allowance thereof by the auditor, shall be paid by the county.

Furnishing of specific rations.
1834, 151, § 20.
R. S. 143, § 45.
G. S. 178, § 55.
P. S. 220, § 58.
R. L. 224, § 32.

SECT. 18. If the mayor of the city of Boston, directs specific rations or articles of food, soap or fuel or other necessities to be furnished to the prisoners, the keeper or master shall conform to such directions ; and if he refuses or neglects to furnish the same, he shall be subject for a first and second offence to the penalties prescribed by section twenty of chapter two hundred and ten of the Revised Laws for the offences therein mentioned.

Instruction to inmates.
1848, 324, § 3.
G. S. 178, § 41.
P. S. 220, § 46.
1885, 266, § 6.
R. L. 225, § 75.

SECT. 19. The mayor of the city of Boston, with the sheriff of the county of Suffolk, may, at the expense of said city, furnish instruction in reading and writing for one hour each evening, except Sunday, to prisoners in the jail and house of correction who may be benefited thereby and who wish to receive it.

PARENTAL SCHOOL.

Supervision of parental school.
1886, 282, §§ 1, 3.
1889, 245.
1897, 395, § 3.
1898, 496, § 22.
R. L. 46, § 1.

SECT. 20. The parental school established under the provisions of chapter two hundred and eighty-two of the acts of the year eighteen hundred and eighty-six shall be used for the confinement, discipline and instruction of minor male children committed from the city of Boston under the provisions of sections three, four and five of chapter forty-six of the Revised Laws, and shall be under the general charge of the trustees for children of the city of Boston. For the purposes of said chapter it shall be deemed the county truant school of the county of Suffolk for commitments from the city of Boston. The school department of said school shall be subject to the visitation and inspection of the school committee of Boston, and the studies and examinations therein shall be under the supervision and regulation of said school committee and trustees for children jointly. Every teacher employed in said school shall hold a certificate of his qualifications from said school committee.

Disposition of vicious inmates.
1898, 496, § 30.
R. L. 46, § 10.
1903, 330, § 4.

SECT. 21. An inmate of the parental school of the city of Boston who persistently violates the reasonable regulations thereof, or is guilty of indecent or immoral conduct, or otherwise grossly misbehaves, so as to render himself an unfit subject for detention therein, may upon complaint by the officer in control of said school and conviction thereof, if under fifteen years of age, be committed to the Lyman school for boys ; if over fifteen years of age, to the Massachusetts reformatory.

Release from the parental school.
1898, 496, § 29.
520, § 1.
R. L. 46, § 8.
1904, 220, § 4.

SECT. 22. Releases from the parental school of the city of Boston shall be governed by the provisions of the three following sections, and shall be made by the trustees for children as therein provided.

Same subject.
1896, 514, § 1.

SECT. 23. The trustees for children of the city of Boston, with the approval of the superintendent of schools of said city and of a justice of the court which imposed the sentence may,

at any time, permit any child committed to the parental school of said city to be at liberty upon such terms and conditions and said superintendent of schools and said trustees for children shall together deem best.

SECT. 24. If any child who is permitted to be at liberty, as provided by the preceding section, violates, in the opinion of said superintendent of schools and said trustees for children, the terms and conditions of his release so that he is in their judgment a fit subject to be returned to said parental school, said trustees, at any time previous to the expiration of the term for which said child shall have been committed to said parental school, may revoke such permit.

Revocation of permits.
1896, 514, § 2.

SECT. 25. Said trustees for children, when any such permit to a child has been revoked, shall issue an order to a truant officer or police officer of said city to arrest such child and return him to said parental school; and any such officer holding said order shall arrest such child and return him to said parental school where he may thereupon be held subject to the provisions of this and the two preceding sections for the unexpired portion of the term of the original sentence. All costs and expenses incurred by such officer in the arrest and return of such child to said school shall be paid to said officer by the city of Boston, when approved by a justice of the court which imposed the sentence.

Arrest and return of children.
1896, 514, § 3.

SECT. 26. For the tuition in the public schools in any city or town of a child between the ages of five and fifteen years who shall be placed elsewhere than in his own home by the trustees for children of the city of Boston or kept under the control of said trustees in such other city or town, the city of Boston from its appropriations for school purposes shall pay to said city or town fifty cents for each week of five days, or major part thereof, of attendance of every such child in the public schools. For the transportation to and from a public school of any child whose tuition is payable by the city of Boston under the provisions of this section, said city shall pay to the city or town furnishing such transportation for each week of five days or major part thereof, an amount equal to the average amount for each child paid by said city or town per week for the transportation of children to and from school over the route by which such child is conveyed. Settlements of the accounts of the several cities and towns with the city of Boston shall be made annually on the first day of April, and the amounts found due shall be paid within three months thereafter.

Tuition of children attending school elsewhere.
1896, 496, § 8.
R. L. 44, § 4.

SUFFOLK SCHOOL FOR BOYS.

SECT. 27. The trustees for children of the city of Boston shall have power at their discretion to take into the Suffolk school for boys all boys who shall be convicted of criminal offences or taken up and committed as stubborn children or runaways under the provisions of section forty-six of chapter

Reception of boys into Suffolk school for boys.
1825, 182, § 2.
1857, 35.
1869, 245.
1895, 449.
§§ 14-16.

1897, 395, § 3.
1906, 150.

two hundred and twelve of the Revised Laws and who may, in the judgment of the judge of the municipal court of the city of Boston be proper objects therefor; and, upon the conviction or commitment aforesaid in the judgment of said judge, a proper object for the Suffolk school for boys, the judge shall, before passing sentence, cause notice to be given to said trustees for children; and in case the said trustees shall declare their assent to the admission of such boy into said school, the said judge shall sentence him to be committed thereto subject to the control of said trustees.

Sentence of
boys to Suffolk
school.
1825, 182, § 3.
1843, 44, § 2.
1847, 206, § 1.

SECT. 28. The municipal court of said city, upon the complaint under oath of the mayor or any alderman thereof or any of the trustees for children that any boy under the age of sixteen years lives an idle and dissolute life, and that his parents are dead, or, if living, do, from vice or any other cause, neglect to provide suitable employment for or to exercise salutary control over such minor, shall have power, upon conviction thereof, to sentence such minor to such school to be kept and governed according to law.

Binding out
inmates.
1825, 183, § 4.

SECT. 29. The trustees for children may receive the persons sentenced and committed as aforesaid into said school, and they shall have the power to place the persons committed to their care, until they arrive at the age of twenty-one years, at such employments, and to cause them to be instructed in such branches of useful knowledge as shall be suitable to their years and capacity and they shall have power to bind out said minors as apprentices or servants until they arrive at the age aforesaid, to such persons, and at such places, to learn such arts, trades and employments as in their judgment will be most for reformation, amendment and future benefit and advantage of such minors. And the provisions of chapter one hundred and fifty-five of the Revised Laws, so far as they relate to binding out children as apprentices or servants shall apply to such minors.

Discharge of
inmates.
1825, 182, § 5.
1857, 35.
1879, 64, § 1.
P. S. 220,
§§ 20, 21.
1889, 245.
1895, 449, § 16.
1897, 395, § 3.
R. L. 224, § 14.
1906, 150.

SECT. 30. In the county of Suffolk, the trustees for children shall, subject to the approval of a justice of the court which imposed the sentence, have authority to discharge persons from the Suffolk school for boys, and may, subject to like approval, remit the punishment and place upon probation any person who may have been committed to said school upon such conditions as they consider proper.

Arrest on
violation of
conditions.
1879, 64, § 2.
P. S. 220, § 22.
1889, 245.
1895, 449, § 16.
1897, 395, § 3.
R. L. 224, § 15.
1906, 150.

SECT. 31. If any person whose punishment has been remitted and who is placed upon probation as provided by the preceding section, in the opinion of said trustees for children, violates any of the conditions of such remission or probation, said trustees may, at any time, without further warrant or authority, cause him to be arrested, and to be remanded and confined for the unexpired term of his sentence.

CHAPTER 47.

POLICE REGULATIONS.

LICENSES IN GENERAL.

SECTION

1. Blasting of rocks regulated.
2. Penalty.
3. Billiard tables and bowling alleys to be licensed.
4. Penalty for keeping a billiard table without a license.
5. Detectives, licensing of.
6. Penalty for acting without license.
7. Innholders and common victuallers.
8. Contents of license.
9. Term of license.
10. Intelligence offices.
11. Money lenders to be licensed.
12. Pawnbrokers.
13. Peddling by minors regulated.
14. Picnic groves, licensing of.
15. Penalty for maintaining grove without license.
16. Skating rinks to be licensed.
17. Penalty for maintaining rink without license.
18. Theatres and public halls to be licensed.
19. Date of expiration of license.
20. Licenses, form and contents.
21. Term of such licenses.
22. Licenses applicable only to places specified.
23. Revocation of licenses.

MISCELLANEOUS POLICE REGULATIONS.

Dog Shelter.

24. Dog shelter authorized.
25. Seizure and delivery of stray dogs at shelter.
26. Disposition of dogs so received.
27. License fee not required for dogs kept at shelter.
28. Price of redemption of such dogs.

Explosives.

29. Rules and regulations.
30. Publication of regulations.
31. Penalty for keeping or selling gunpowder unlawfully.
32. Seizure and forfeiture of gunpowder.
33. Jurisdiction of municipal court.
34. Fine for rescuing or attempting to rescue gunpowder.

SECTION

35. Fire engineers may enter to search for gunpowder.
36. Action by persons injured.
37. Recovery and disposition of fines and forfeitures.
38. Requirements as to storage and sale of gunpowder.

Fire and Precautions against it.

39. Penalty for carrying fire in streets.

Fireworks.

40. Sale of fireworks to be licensed.
41. Penalty for selling without license.

Horses, Sale at Auction Regulated.

42. Sale of horses at auction regulated.
43. Certain erections to constitute a common nuisance.
44. Penalty.
45. Provisions of law applicable.

Junk Dealers.

46. License to junk dealers.
47. Badges to be displayed.
48. Ordinances as to records of junk dealers.
49. Incorporation of rules in license.
50. Penalty for acting without license.

Smoke Nuisance.

51. Discharge of dense smoke restricted.
52. Enforcement by board of health.
53. Penalty.
54. Injunction to restrain operation of furnaces.

Street Lamps.

55. Street lamps authorized.
56. Penalty for injuring lamps.

Street Car Conductors and Motormen.

57. Street car conductors, etc., to be licensed.
58. Record of licenses.
59. Enforcement of conformity to laws by licensees.
60. Penalty for acting without license.
61. Issue of license after revocation of former license.

LICENSES IN GENERAL.

SECTION 1. No person shall blast any rock or other substance with gunpowder or other material within one hundred yards of any public place or highway in the city of Boston without license from the board of aldermen or some person designated by them in writing, specifying the terms and conditions on which such license is granted, *provided, however,* that the remedy of any person injured by the blasting of rocks shall

Blasting of rocks regulated. 1868, 201, § 1.

not be affected by this section nor shall it be considered as applying to the surveyors of highways in the discharge of their official duties.

Penalty.
1888, 201, § 2.
1892, 264.

SECT. 2. Any person who shall, either by himself, his servant or agent, or by any person in his employ, violate any of the provisions of the preceding section or of any license granted as aforesaid, shall, for each offence, pay a fine of not less than ten dollars nor more than one hundred dollars.

Billiard tables and bowling alleys to be licensed.

1857, 194, § 2.
G. S. 88, § 69.
1876, 147, §§ 1, 2.
1878, 244, § 2.
1880, 94.
P. S. 102, § 111.
1883, 323, § 2.
R. L. 102, § 168.
1906, 291, § 4.
1907, 214.

SECT. 3. In Boston, the licensing board may grant a license to a person to keep a billiard, pool or sippio table, or of any other table of like character, or a bowling alley used for hire, gain, or reward, upon such terms and conditions as they deem proper, to be used for amusement merely, but not for the purpose of gaming for money or other property, subject to the provisions of sections twenty to twenty-three, inclusive, of this chapter, and may revoke it at pleasure.

Penalty for keeping billiard table without license.

1857, 194, § 1.
G. S. 88, § 70.
1880, 94.
P. S. 102, § 112.
R. L. 102, § 169.
141 Mass. 420.

SECT. 4. Whoever without such license keeps or suffers to be kept in a house, building, yard or dependency thereof, actually occupied or owned by him, a table for the purpose of playing at billiards, pool or sippio, or a bowling alley for the purpose of playing at bowls for hire, gain or reward, or whoever for hire, gain or reward suffers any person to resort thereto for such purpose shall forfeit not more than one hundred dollars for each offence.

Detectives, licensing of.
1879, 305, § 7.
P. S. 103, § 7.
1883, 323, § 2.
R. L. 108, § 86.
1906, 291, § 10.

SECT. 5. The police commissioner for the city of Boston may license any citizen of said city to act as a private detective, for the detection, prevention and punishment of crime, for the term of one year, unless his license is sooner revoked for cause. The fee for such license shall be ten dollars, which shall be paid into the city treasury. Each person so licensed shall give bond to the city treasurer in the sum of three thousand dollars, with two sureties, approved by the police commissioner, with condition for the proper discharge of the services which he may perform by virtue of such license; but the provisions of this section shall not confer on a person so licensed any of the power or authority of constables or police officers.

Penalty for acting without license.

1886, 261, § 5.
1875, 15, § 10.
1879, 305, § 8.
P. S. 103, § 8.
R. L. 108, § 37.

SECT. 6. Whoever without such license engages in the general business of a private detective, or advertises or holds himself out as a private detective, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than six months, or by both such fine and imprisonment; but the provisions of this section shall not apply to a detective of another state who comes within this commonwealth in the performance of his duties.

Innholders and common victuallers.
1878, 39, § 1.
R. L. 102, § 2.
1906, 291, § 4.
141 Mass. 23.

SECT. 7. The licensing board in Boston may grant licenses to persons to be innholders or common victuallers in said city. Such license shall not be issued or be valid until it has been signed by a majority of the members of said board, and any member thereof may refuse to sign a license for a person who, in his opinion has not complied with the provisions of chapter one hundred and two of the Revised Laws. Any member who

signs a license granted contrary to the provisions of said chapter, shall be punished by a fine of not more than fifty dollars. The provisions of this section shall not require the licensing board to grant either of such licenses, if, in their opinion, the public good does not require it. If such license is granted, no fee shall be charged therefor. Such license shall be recorded in the office of the licensing board.

SECT. 8. Every such license shall specify the street, lane alley or other place, and the number of the building, or give some other particular description thereof, where the licensee shall exercise his employment; and the license shall not protect a licensee who exercises his employment in any other place than that so specified.

SECT. 9. Such licenses shall expire on the thirtieth day of April of each year; but they may be granted during April, to take effect on the first day of May next ensuing.

SECT. 10. In Boston, the licensing board may grant licenses to suitable persons to keep an intelligence office for the purpose of obtaining or giving information, concerning places of employment for domestics, servants or other laborers, except seamen, or for procuring or giving information concerning such persons for or to employers or for procuring or giving information concerning employment in business, subject to the provisions of sections twenty to twenty-three, inclusive, of this chapter, and may revoke them at pleasure.

SECT. 11. In the city of Boston, licenses to persons, corporations or partnerships to engage in the business of making loans secured by mortgage or pledge of personal property, under the provisions of section fifty-seven of chapter one hundred and two of the Revised Laws, may be granted by the police commissioner for said city.

SECT. 12. In the city of Boston, the police commissioner may license suitable persons to carry on the business of pawnbrokers in said city, subject to the provisions of sections twenty to twenty three, inclusive, of this chapter. R. L. 102, § 32. 1906, 291, § 10.

SECT. 13. The mayor and aldermen of the city of Boston, or in the case of minors under the age of fourteen years, the school committee of said city, may make regulations relative to the exercise of the trade of boothblackening by minors, and to the sale by minors of any goods, wares or merchandise the sale of which is permitted by section fifteen of chapter sixty-five of the Revised Laws and may prohibit such sales or such trade, or may require a minor to obtain from them a license therefor to be issued on terms and conditions prescribed in such regulations. A minor who sells such articles or exercises such trade without a license, if one is required, or who violates the conditions of his license or any of the provisions of said regulations, shall be punished by a fine of not more than ten dollars for each offence.

SECT. 14. In the city of Boston, the licensing board may grant a license to any person to establish, let, keep open and

Contents of
license.
1832, 166, § 6.
R. S. 47, § 17.
G. S. 88, § 2.
P. S. 102, § 3.
R. L. 102, § 3.

Term of
license.
1879, 38, § 2.
P. S. 102, § 4.
1890, 73.
R. L. 102, § 4
Intelligence
offices.
1848, 270, § 2.
G. S. 88, § 24.
1876, 147,
§§ 1, 2.
1880, 84, § 1.
P. S. 102, § 27.
1885, 323, § 2.
R. L. 102, § 24.
1906, 291, § 4.

Money lenders
to be licensed.
1898, 577, § 1.
R. L. 102, § 57.
176 Mass. 19.

Pawnbrokers.
1856, 121, § 1.
G. S. 88, §§ 28,
29.
1880, 84, § 1.
P. S. 102, § 33.
1885, 323, § 2.

Peddling by
minors reg-
ulated.
1846, 244, § 2.
G. S. 50, § 14.
P. S. 68, § 2.
1892, 331.
R. L. 65, § 17.
1902, 531.

Picnic groves,
licensing of.
1885, 309, §§ 1,

4; 323, § 2.
R. L. 102, § 178.
1906, 291, § 4.

maintain a grove to be used for picnics or other lawful gatherings and amusements for hire, gain or reward upon such conditions and regulations as they deem proper, subject to the provisions of sections twenty to twenty-three, inclusive, of this chapter.

Penalty for
maintaining
grove without
license.
1835, 309, § 2.
R. L. 102, § 179.

SECT. 15. Whoever, without such license, establishes, lets, keeps open or maintains, himself or by another, a grove to be used for picnics or other amusements for hire, gain or reward shall be punished by a fine of not more than one hundred dollars.

Skating rinks
to be licensed.
1835, 196, § 1;
323, § 2.
R. L. 102, § 176.
1906, 291, § 4.

SECT. 16. In the city of Boston, the licensing board may grant a license to any person to establish, keep open and maintain a skating rink to be used for the amusement of roller skating for hire, gain or reward upon such terms, conditions and regulations as they deem proper, subject to the provisions of sections twenty to twenty-three, inclusive, of this chapter.

Penalty for
maintaining
rink without
license.
1835, 196, § 2.
R. L. 102, § 177.

SECT. 17. Whoever, without such license, establishes, keeps open or maintains a skating rink to be used for the amusement of roller skating shall be punished by a fine of not more than five hundred dollars for each offence.

Theatres and
public halls to
be licensed.
1821, 110, § 14.
1904, 450, § 2.
1905, 342, § 1.
1907, 463.

SECT. 18. In Boston, the mayor shall be the officer to issue licenses for theatres and public halls, and he may require such changes in the structural condition of any building before issuing a license, as, in his opinion, the public safety requires, but no changes shall be ordered in excess of the statutory requirements then in force for a new building of like character. Whoever is aggrieved by any order or decision of the mayor in respect to changes that he may require in the structural condition of any building before issuing a license as aforesaid shall have the right of appeal to the board of appeal established by chapter five hundred and fifty of the acts of the year nineteen hundred and seven. Said board on receipt of the appeal shall, within five days thereafter, examine the premises and hear the parties and render a decision in writing within ten days after such hearing, and the majority of the board shall decide whether the whole or a part of the order or requirement made by the mayor in respect to structural changes shall be complied with, or whether a license for said building shall be issued; and the mayor shall make his order or requirement in respect of structural changes and the issuing of said license conform to the decision of said board. If the mayor has granted a license as aforesaid, he shall not revoke or suspend the same except by giving five days' written notice to the licensee of his intention so to do, and his reasons therefor, and if the licensee is aggrieved by said notice of revocation and said reasons he may appeal to the board of appeal, who shall, within five days from date of his appeal, examine the premises and hear the parties, and render a decision in writing within three days after such hearing; and the majority of the board shall decide whether the license shall be revoked, and the mayor shall make his action conform to the decision of the board and shall not revoke the same without the approval of the board.

SECT. 19. The license shall expire on the first day of August of each year, and the licensing officer may, after the first inspection, suspend the regular inspection of a public hall for a period not exceeding six months. In buildings existing on the twentieth day of May in the year nineteen hundred and five, an equivalent of the conditions required by law may be accepted by the licensing officer: *provided*, that such equivalents are set forth in detail in the license which shall be posted in a conspicuous place in the building.

Date of expiration of license.
1905, 242, § 2.

SECT. 20. In the city of Boston, licenses granted to keepers of intelligence offices, billiard tables, pool or sippio rooms or tables, bowling alleys, skating rinks and picnic groves and to innholders and common victuallers shall be signed by a majority of the members of the licensing board, and licenses granted to dealers in junk, old metals and second hand articles and pawnbrokers shall be signed by the police commissioner. Every such license shall, before being delivered to the licensee, be recorded in the office of the licensing board or of the police commissioner, as the case may be, in a book kept for that purpose. Such license shall set forth the name of the licensee, the nature of the business, and the building or place in which it is to be carried on, and shall continue in force until the first day of May following, unless sooner revoked. The board or commissioner shall, except as provided in section forty of chapter one hundred and two of the Revised Laws receive, for the use of the city of Boston such amount, not less than two dollars for each license, and, for a pawnbroker's license, not less than ten dollars, as the board or commissioner considers reasonable.

Licenses, form and contents.
1899, 53, § 2.
1855, 121, § 2.
G. S. 88, § 5.
96, 29.
1876, 147, § 1.
1879, 38, § 2; 102, § 3.
1880, 84, 94.
P. S. 102, § 124.
1882, 238.
1885, 196, § 1;
189, § 1; 323, § 2.
R. L. 102, § 188.
1906, 291,
§ 4, 10.

SECT. 21. Such licenses may be granted in April to take effect on the first day of May following. P. S. 102, § 125. R. L. 102, § 187.

Term of such licenses.
1876, 147, § 2.

SECT. 22. A license issued as aforesaid shall not protect the holder thereof in a building or place other than that designated in the license unless consent to removal is granted by the licensing board or police commissioner respectively. 1906, 291, § 4, 10.

License applicable only to places specified.
1876, 147, § 3.
P. S. 102, § 126.
R. L. 102, § 188.

SECT. 23. Upon the revocation of such a license, the revocation shall be noted upon the face of the record thereof, and written notice shall be given to the licensee by delivery to him in person or by leaving it at the place of business designated in the license.

Revocation of licenses.
1876, 147, § 4.
P. S. 102, § 127.
R. L. 102, § 189.

MISCELLANEOUS POLICE REGULATIONS.

Dog Shelter.

SECT. 24. The board of aldermen of the city of Boston may authorize the Massachusetts society for the prevention of cruelty to animals to establish and maintain in said city a shelter for the detention of unlicensed or stray dogs, which may be seized under the provisions of the following section, and may make any necessary agreement with said society for the reception, sheltering, keeping and feeding, or humane killing or other disposition of such dogs: *provided, however*, that no such

Dog shelter authorized.
1881, 278, § 1.

shelter shall be established or maintained when an adjoining owner objects thereto.

Seizure and
delivery of
stray dogs at
shelter.
1881, 278, § 2.
R. L. 102, § 148.

SECT. 25. The mayor of said city shall annually, within ten days from the first day of July, issue a warrant to one or more police officers or constables or any officer of said society for the prevention of cruelty to animals directing them to proceed forthwith to seize and deliver at such shelter all dogs found running at large within said city of Boston, not licensed and collared according to law, and to enter a complaint against the owners or keepers thereof. Such officers, other than those under regular pay from said city, shall receive one dollar from the treasurer of said city for each dog so taken and delivered as aforesaid. And all bills for such service shall be approved as provided in section one hundred and forty-three of chapter one hundred and two of the Revised Laws.

Disposition of
dogs so
received.
1881, 278, § 3.

SECT. 26. Every dog so taken and received by such shelter, as herein before provided, shall be there kept and provided with suitable food, and the owner thereof may redeem the same at any time within five days by proving title to said dog, by showing that the same has been duly licensed according to law, and by paying the fee fixed by the aldermen of said city. At the expiration of five days, said society may cause said dog to be humanely killed, or, upon the payment of the license fee required by law, it may sell or otherwise dispose of the same.

License fee not
required for
dogs kept at
shelter.
1881, 278, § 4.

SECT. 27. For keeping and sheltering any dog under the provisions of the three preceding sections, said society shall not be liable to pay any license fee, nor shall it be liable for keeping any dog at such shelter which is unlicensed.

Price of re-
demption of
such dogs.
1881, 278, § 5.

SECT. 28. The aldermen of said city shall have the power to prescribe the price at which any dog taken and kept in such shelter may be redeemed by the owner thereof; and all moneys received by said society for the redemption and sale of any dogs kept at such shelter shall be paid to the treasurer of said city.

Explosives.

Rules and
regulations.
1881, 151, § 3.
1878, 46.

SECT. 29. The city council of the city of Boston may establish rules and regulations, from time to time, relative to the times and places at which gunpowder may be brought to or carried from said city by land or water, the times when and the manner in which the same may be transported through the said city, to direct and regulate the kind of carriages and boats in which the same may be brought to, carried from and through, said city, and to direct the manner in which gunpowder may be kept by licensed dealers and other persons, and to direct and require all such precautions as may appear to them needful and salutary to guard against danger in the keeping and transportation of gunpowder.

Publication of
regulations.
1883, 151, § 9.
1878, 46.

SECT. 30. It shall be the duty of the city council of the city of Boston to cause all such rules and regulations as they may make and publish by virtue of the authority given by the

preceding section, to be published in two or more newspapers published in the city of Boston, and to cause such publication to be continued three weeks successively for the information and government of all persons concerned.

SECT. 31. Any person who shall keep, have or possess any gunpowder within the city of Boston contrary to the provisions of the aforesaid rules and regulations, or who shall sell any gunpowder in said city, without having a license therefor, or contrary to such license, or to the rules and regulations aforesaid, shall forfeit a sum not less than one hundred dollars, and not exceeding five hundred dollars, for each offence; and if any gunpowder, kept without a license or contrary to the rules and regulations aforesaid, shall explode in any building, or on board of any ship or other vessel, or in any place in said city, the occupant, tenant or owner of which has not then a license to keep and sell gunpowder therein, such occupant, tenant or owner shall forfeit a sum not less than one hundred dollars, and not exceeding one thousand dollars, for each offence.

Penalty for keeping or selling gunpowder unlawfully. 1833, 151, § 4. 1837, 99, § 1.

SECT. 32. All gunpowder which shall be kept, had or possessed within the city of Boston, or brought into or transported through the same, contrary to the provisions of the rules and regulations made as aforesaid, may be seized and taken into custody by the fire commissioner and the same shall, within twenty days next after the seizure thereof, be libelled by filing in the office of the clerk of the superior court for the county of Suffolk a libel stating the time, place and cause of such seizure, a copy of which libel, or the substance thereof, together with a summons or notice, which such clerk is hereby authorized to issue, shall be served on the person or persons in whose custody or possession such gunpowder shall have been seized, if such person be an inhabitant of the commonwealth, by delivering a copy thereof to such person or persons, or by leaving such a copy at his, her or their usual place of abode fourteen days at least before the sitting of the court at which the same is to be heard, that such person or persons may appear and show cause why the gunpowder so seized and taken should not be adjudged forfeit. And if the gunpowder so seized shall be adjudged forfeit, the person or persons in whose custody or possession the same was seized or the occupant or tenant of the place wherein the same was so seized shall pay all costs of prosecution, and execution shall be issued therefor; *provided*, that it appear to the court that such person or persons had notice of such prosecution by service as aforesaid, and in case the person or persons in whose custody or possession such gunpowder may be seized, shall be unknown to the fire commissioner, or in case such gunpowder, at the time of seizure, is not in the custody or possession of any person, or if it shall appear by the return of the officer that such person cannot be found, or has no place of abode in this commonwealth, then said court shall and may proceed to adjudication thereon. And such libel or summons, and also such writ of execution for

Seizure and forfeiture of gunpowder. 1833, 151, § 5. 1 Met. 225.

costs, shall and may be served and executed in any county in this commonwealth, and by any officer competent to execute civil process in like cases.

Jurisdiction of
municipal
court.
1841, 58, § 1.
1 Met. 225, 232.

SECT. 33. Whenever any quantity less than ten quarter-casks of gunpowder shall be seized and taken into custody by the fire commissioner of the city of Boston, a libel or complaint may be filed in the municipal court of said city of Boston, and the like proceedings thereon (excepting a trial by jury), shall be had in said court as are provided for by the preceding section, in the like cases of seizures and proceedings before the superior court; saving always to any party aggrieved by any final judgment of said municipal court, the right of appeal and trial by jury in the superior court.

Fine for re-
scuing, or
attempting to
rescue, gun-
powder.
1833, 151, § 6.

SECT. 34. Any person or persons, who shall rescue, or attempt to rescue, any gunpowder seized as aforesaid, or shall aid or assist therein, or who shall counsel or advise, or procure the same to be done, or who shall molest, hinder or obstruct said commissioner in such seizure, or in conveying gunpowder so seized to a place of safety, shall forfeit and pay a fine for each offence of not less than one hundred dollars, and not exceeding five hundred dollars, to be sued for and recovered, in an action of tort, by any person or persons who shall sue for the same; and it is hereby made the duty of all persons to aid and assist said commissioner in executing the duties hereby required.

Fire engineers
may enter to
search for
gunpowder.
1833, 151, § 7.

SECT. 35. The fire commissioner or any of his deputies may enter the store or place of any person or persons, licensed to sell gunpowder, to examine and ascertain if the laws, rules and regulations relating thereto are strictly observed; and, on an alarm of fire, may cause the powder there deposited to be removed or destroyed, as the case may require; and it shall be lawful for the fire commissioner or any one or more of the engineers of said city to enter any dwelling-house or other place in the city of Boston to search for gunpowder, first having obtained from a justice of the municipal court in said city a search warrant therefor, which warrant the justices of said court are hereby authorized to issue upon the complaint of such commissioner, engineer or engineers, supported by his or their oath.

Action by per-
sons injured.
1833, 151, § 8.

SECT. 36. Any person who shall suffer injury by the explosion of any gunpowder, had, kept or transported within the city of Boston contrary to the provisions of the rules and regulations established as aforesaid, may have an action of tort against the owner or owners of such gunpowder, or against any other person or persons who may have had the possession or custody of such gunpowder, at the time of the explosion thereof, to recover reasonable damages for the injury thus sustained.

Recovery and
disposition of
fines and for-
feitures.
1833, 151, § 10.
1837, 99, § 2.
1841, 58, § 2.

SECT. 37. All fines, penalties and forfeitures which may arise and accrue under the provisions of preceding sections shall and may be prosecuted for and recovered, either in the manner hereinbefore specially provided, or by indictment or complaint.

SECT. 38. Whoever stores more than one pound of gunpowder or any other explosive or keeps it for sale in any building shall immediately, upon receipt thereof, deliver to the fire commissioner in Boston a statement in writing of the amount thereof kept, or proposed to be kept, and a description of the building and part of the building in which it is kept, or proposed to be kept, sufficiently accurate for identification. No person shall store or keep for sale gunpowder or any other explosive in any other place. Whoever violates the provisions of this section shall be punished by a fine of not more than one hundred dollars.

Requirements
as to storage
and sale of
gunpowder.
1882, 289.
R. L. 102, § 98.

Fire and Precautions Against It.

SECT. 39. Every person who shall carry any fire through the streets, lanes or on any wharves in said city, except in some covered vessel, or who shall kindle a fire in any of the places aforesaid without the permission therefor in writing of the fire commissioner of said city shall forfeit and pay for each and every offence, the sum of two dollars, to be recovered of the person so offending or of his parent, guardian, master or mistress.

Penalty for
carrying fire
in streets.
1817, 171, § 10.
1880, 88.

Fireworks.

SECT. 40. It shall not be lawful for any person or persons to keep or sell any fireworks within the city of Boston in any quantity without first having obtained from the fire commissioner of said city a license therefor, signed by said commissioner, on which shall be written or printed a copy of the rules and regulations by him established relative to the keeping, selling or storage of fireworks within said city; and every such license shall be in force until the first day of May next ensuing the date thereof unless sooner annulled by the fire commissioner, and no longer; but such license may, prior to the expiration of that term be renewed by the fire commissioner from year to year by indorsement thereon: *provided*, always that the fire commissioner may rescind any such license, if in his opinion the person or persons have disobeyed the law or infringed on any rules or regulations established by him; and every person who receives a license to sell fireworks as aforesaid, shall pay for the same the sum of one dollar, and the same sum for the renewal thereof, and all such licenses shall expire on the first day of May, annually, and all moneys received for licenses shall be paid to the fire commissioner for the purpose of defraying the expense of carrying the provisions of this and the following section into execution.

Sale of fire-
works to be
licensed.
1853, 154, § 1.
1885, 449, § 9.

SECT. 41. Any person or persons who have for sale or keep in possession any fireworks within the city of Boston contrary to the rules and regulations established by the fire commissioner, or who shall sell any fireworks in said city without first having obtained from the fire commissioner a license, as aforesaid, shall forfeit a sum not less than fifteen nor more than fifty dollars for each offence.

Penalty for
selling with-
out license.
1853, 154, § 2.
1885, 449, § 9.

Horses, Sale at Auction Regulated.

Sale of horses
at auction
regulated.
1904, 838, § 1.
1905, 426, § 1.

SECT. 42. No person shall use or occupy for the sale of horses at auction any place within the building limits of the city of Boston as they were established on the thirteenth day of May in the year nineteen hundred and four; but the provisions of this section shall not apply to any place used and occupied for the sale of horses at auction, as aforesaid, where such auction takes place wholly within a building and where the horses are not shown or exhibited in the streets or highways within the building limits of said city, except so far as is reasonably necessary to get outside of said building limits.

Certain erec-
tions to con-
stitute a
common nu-
isance.
1905, 426, § 2.

SECT. 43. The maintenance or use of a place for the sale of horses at auction within the building limits of the city of Boston as they were established on the twenty-second day of May in the year nineteen hundred and five, except in accordance with the provisions of this and the preceding sections, and the use or maintenance of any such place for the sale of horses at auction where the horses are shown, exhibited or sold in or upon the streets or highways at said auction sale, or where the business is conducted in such a manner as to impede travel, upon the sidewalk, streets or highways adjacent to the place so used and occupied shall constitute a common nuisance.

Penalty.
1905, 426, § 3.

SECT. 44. Any person violating any of the provisions of the two preceding sections, or maintaining a nuisance in violation thereof, shall be punished by a fine of not more than one thousand dollars.

Provisions of
law applicable.
1905, 426, § 4.

SECT. 45. The provisions of section eight of chapter one hundred and one of the Revised Laws shall apply to the common nuisance defined by the foregoing sections.

Junk Dealers.

License to
junk dealers.
1900, 416, § 1.
R. L. 102, § 29.
1906, 291, § 10.

SECT. 46. The police commissioner for the city of Boston may license suitable persons as junk collectors to collect by purchase or otherwise junk, old metals and second hand articles from place to place in the city of Boston, and may revoke such licenses at pleasure. All provisions of law relating to the fees for, and to the issuing, recording and revocation of licenses of keepers of shops for the sale of junk shall apply to said junk collectors' licenses, excepting that the fee so charged shall not exceed two dollars.

Badges to be
displayed.
1900, 416, § 2.

SECT. 47. The said police commissioner may provide that junk collectors shall display badges upon their persons or upon their vehicles, or upon both, when engaged in collecting, transporting or dealing in junk, old metals or second hand articles, and may prescribe the design thereof.

Ordinances as
to records of
junk dealers.
1862, 205, § 1.
P. S. 102, § 29.
1900, 416, § 3.
R. L. 102, § 30.
1906, 291, § 10.

SECT. 48. The city of Boston may provide by ordinance that every keeper of a shop within its limits for the purchase, sale or barter of junk, old metals or second hand articles, shall keep a book in which shall be written at the time of the pur-

chase of any such article a description thereof, the name, age and residence of the person from whom, and the day and hour when, such purchase was made; that such book shall at all times be open to the inspection of the mayor and aldermen, police commissioner or any person by them respectively authorized to make such inspection; that every keeper of such shop shall put in some suitable and conspicuous place on his shop a sign having his name and occupation legibly inscribed in large letters; that such shop and all articles of merchandise therein may at all times be examined by the mayor and aldermen, police commissioner, or by any person by them respectively authorized to make such examination; and that no keeper of such shop and no junk collector shall directly or indirectly either purchase or receive by way of barter or exchange, any of the articles aforesaid of a minor or apprentice, knowing or having reason to believe him to be such; and that no article purchased or received by any keeper of such shop shall be sold until a period of at least one week from the date of its purchase or receipt has elapsed. The city may also prescribe in like manner the hours in which such shops shall be closed, and that no keeper thereof and no junk collector shall purchase any of the articles aforesaid during such hours.

SECT. 49. Every regulation and restriction authorized by the preceding section shall be incorporated in every license to which it may apply.

1900, 418, § 4.

R. L. 102, § 31.

Incorporation
of rules in
license.
1882, 205, § 2.
P. S. 102, § 30.

SECT. 50. Whoever, not being so licensed, keeps such a junk shop or is such junk collector in the city of Boston, or, being licensed, keeps such shop or is such junk collector in any other place or manner than that designated in his license, or after notice to him that his license has been revoked, shall forfeit twenty dollars for every such offence; and whoever violates any rule, regulation or restriction contained in his license shall forfeit a sum not exceeding twenty dollars for each offence.

Penalty for
acting without
license.
1889, 53, § 2.
G. S. 88, § 27.
1882, 205, § 2.
P. S. 102, § 31.
1900, 418, § 5.
R. L. 102, § 32.

Smoke Nuisance.

SECT. 51. In the city of Boston, dark smoke or dense gray smoke shall not be discharged or allowed to escape from any building or premises, except locomotive engines and plants furnishing power for public service corporations and plants burning wood exclusively for more than six minutes in any one hour of the day or night, except under a permit as hereinafter provided.

Discharge of
dense smoke
restricted.
1895, 389, § 1.
1905, 418, § 1.

SECT. 52. The board of health of the city of Boston shall be charged with the enforcement of the preceding section in said city.

Enforcement
by board of
health.
1895, 389, § 2.
1905, 418, § 2.

SECT. 53. Whoever violates the provisions of section fifty-one or in any way participates in the violation thereof, may be punished by a fine of not more than one hundred dollars for each week during any part of which said section is violated. The board of health of said city shall be notified of every com-

Penalty.
1895, 389, § 2.
1905, 418, § 3.

plaint and shall be given at least twenty-four hours' notice of the time of the trial thereon.

Injunction to
restrain op-
eration of fur-
naces.

1-95, 889, § 4.
1905, 418, § 4.

SECT. 54. The board of health of the city of Boston may apply to the supreme judicial court or to the superior court or any justice thereof for an injunction to restrain the further operation of any furnace, engine, steam boiler or boilers, which are being operated in said city in such a manner as to violate the provisions of section fifty-one, and said court or justice may, after hearing the parties, enjoin the continuance of such violation.

Street Lamps.

Street lamps
authorized.

1773-74, 12.
1796, 69.
1825, 3, § 1.
1 Allen, 80.
100 Mass. 255.
106 Mass. 278.
110 Mass. 520.
153 Mass. 131.
188 Mass. 595.

SECT. 55. It shall be lawful for the board of aldermen of the city of Boston, for the time being, to cause to be set up and affixed such and so many lamps in the streets and other places in said city for the purpose of lighting the same as they may determine to be convenient, and are empowered to make all necessary rules and regulations respecting the said lamps, as they may deem most for the benefit of said city.

Penalties for
injuring
lamps.

1823, 113.
1825, 3, § 2.

SECT. 56. Whoever shall wilfully, maliciously, carelessly or wantonly break, throw down or extinguish or otherwise injure any of the said lamps, or the posts, irons or other furniture to the same belonging shall, upon conviction thereof, forfeit and pay a sum not less than ten dollars nor more than thirty dollars for each lamp so broken or damaged, and a like sum for each post or the iron or other furniture so broken or damaged.

Street Car Conductors and Motormen.

Street car con-
ductors, etc.,
to be licensed.

1879, 59, § 1.
1880, 96.
1885, 323, § 2.
1887, 343, § 1.
1906, 291, § 10.

SECT. 57. The police commissioner for the city of Boston shall, upon the recommendation of the president, superintendent or board of directors of any street railway corporation using the streets of said city issue licenses from time to time to the conductors, motormen and drivers of the street cars of the said several street railway corporations, and also to the persons employed to start or despatch the cars of said corporations from the stables, stations, depots and other places within said city; and said police commissioner may, after due notice and a hearing, revoke any such license at any time for sufficient cause. Such licenses shall continue and remain in force until surrendered by the licensee or until revoked by said police commissioner and shall contain such provisions and conditions as said police commissioner shall determine: *provided, however*, that the fee to be paid for each license shall not exceed the sum of twenty-five cents.

Record of
licenses.

1879, 59, § 2.
1885, 323, § 2.
1906, 291, § 10.

SECT. 58. A record of the issue, surrender and revocation of such licenses shall be kept at the office of said police commissioner, and shall be open at all times to the inspection of the presidents and superintendents of the several street railways using the streets in said city; and whenever any such license is revoked by the police commissioner, notice thereof shall be transmitted to the presidents or superintendents of said street railways and to the licensee.

SECT. 59. Said police commissioner shall require the members of his department to observe and direct the persons licensed under the provisions of section fifty-seven and to cause them to conform to the laws of the commonwealth, the ordinances of the city of Boston, the regulations of the board of aldermen of said city and the rules of the police commissioner relating to the use of the tracks, the speed of the cars, and especially to the obstructions of public travel by the management of the street cars; said police officers shall secure the necessary testimony, and shall report to the police commissioner every instance of the wilful or persistent violation by any licensee of any such law, ordinance, regulation or rule, or any refusal to obey the request of said officers respecting the management of any street car.

Enforcement
of conformity
to law by
licensees.
1879, 59, § 3.
1897, 343, § 2.

SECT. 60. Any person who shall act in the capacity of driver or motorman on any street car in any street of the city of Boston, except at the stables or car houses of said corporations, or shall act in the capacity of conductor, starter or despatcher at any place within the limits of said city, without being licensed therefor as herein provided, or who shall act in such capacity in violation of the provisions or conditions, or after the revocation of such license, shall forfeit and pay a sum not exceeding twenty dollars for each offence.

Penalty for
acting without
license.
1879, 59, § 4.
1897, 343, § 3.

SECT. 61. No person whose license shall have been revoked pursuant to the provisions of section fifty-seven shall be reinstated, or receive a new license as conductor, driver, motorman, starter or despatcher on any street railway in the city of Boston within a period of two months from the date of the revocation of his license unless by the assent of said commissioner.

Issue of
license after
revocation of
former license
1879, 59, § 5.
1880, 99.
1897, 343, § 4.

CHAPTER 48.

SCHOOLS AND SCHOOL TEACHERS.

IN GENERAL.

SECTION

1. Prerequisites to construction of school buildings.

2. Issue of arms by governor.

BOSTON NORMAL SCHOOL.

3. Maintenance of Boston normal school.

4. Admission of men to normal school.

FRANKLIN UNION.

5. Franklin Union.

6. Acquisition of land for.

HORACE MANN SCHOOL FOR THE DEAF.

7. Horace Mann school for the deaf.

8. Restrictions on use of land.

INDUSTRIAL SCHOOL.

9. Mechanic arts high school.

PHYSICAL EDUCATION.

10. Instruction in physical training.

11. Use of playgrounds, etc., for.

PUBLIC GYMNASIA.

SECTION

12. Public gymnasia.

SCHOOL TEACHERS' RETIREMENT FUND.

13. Composition of fund.

14. Composition of board of trustees.

15. Powers and duties of board of trustees.

16. City treasurer to be custodian of the retirement fund.

17. Sums to be reserved from salaries of teachers.

18. Annuities to certain teachers.

19. Annuities to teachers incapacitated for teaching.

20. Certain annuities to be uniform in amount.

21. Amount of contribution essential to annuity.

22. Repayment of portion of contribution.

23. Teachers subject to provisions of ten preceding sections.

24. Definition of teacher.

IN GENERAL.

Classification
of janitors,
etc., in charge
of steam
boilers in
school build-
ings.
1889, 352.
1893, 253.
R. L. 19, § 10.
Issue of arms
by governor.
Res. 1869, 40.

SECTION 1. Engineers, janitors and all persons having charge of steam boilers and furnaces in the school buildings in the city of Boston, and truant officers appointed by the school committee of said city, shall be classified and appointed pursuant to chapter nineteen of the Revised Laws and the rules thereunder.

SECT. 2. His excellency the governor is authorized to issue to the city of Boston such arms for the use of the English High and Latin schools in said city as, in his judgment, may be so distributed without detriment to the militia service: *provided*, the city of Boston shall be held responsible for the return in good order and condition of said arms whenever his excellency the governor shall so direct.

BOSTON NORMAL SCHOOL.

Maintenance
of Boston nor-
mal school.
1874, 167.
1882, 136, § 1.

SECT. 3. The school committee of the city of Boston shall have the same power to maintain and continue the normal school as they have to maintain and continue the other public schools of said city, and they may provide instruction, in connection with said normal school, in the principles and methods of teaching for the benefit of teachers in the service of said city.

Admission of
men to normal
school.
1904, 212.

SECT. 4. The school committee of the city of Boston may admit men to the normal school maintained by that city, under such restrictions and subject to such regulations as the committee may deem advisable.

FRANKLIN UNION.

Franklin
Union.
1905, 448, § 1.

SECT. 5. The city of Boston is authorized to maintain an institution similar to the Cooper Union in the city of New York to be known as the Franklin Union, and to pass ordinances for the maintenance and management of the institution.

Acquisition of
land for.
1905, 448, § 2.

SECT. 6. For the purpose of acquiring land for the said institution, the treasurer of the city of Boston, upon the request of the mayor, shall issue within the debt limit bonds of the city to an amount not exceeding one hundred thousand dollars, and shall pay from the proceeds, on drafts of the chairman of the managers of the Franklin Fund, for a site for said institution, the title to which shall be vested in the said city. No part of the proceeds of the said bonds shall be used to pay for said building, its equipment or furnishings, which are to be provided by the said managers out of the said fund.

HORACE MANN SCHOOL FOR THE DEAF.

Horace Mann
School for the
Deaf.
1885, 201, § 1.
1905, 467, § 1.

SECT. 7. The city of Boston, its successors and assigns, shall hold in fee, and occupy and control a parcel of land situated on Newbury street in said city and granted to said city by the commonwealth by chapter two hundred and one of the acts of the year eighteen hundred and eighty-five, and the passageway

named in said act, subject to the rights, if any, of other parties, and to the restrictions contained in conveyances heretofore made by the commonwealth of its lands upon said Newbury street between Dartmouth and Exeter streets, and shall maintain thereon the Horace Mann School for the Deaf for the education of deaf mutes and deaf children, who shall be sent to said school by the governor, with the approval of the board of education, or shall otherwise be lawfully sent to or received by the said school for instruction therein.

SECT. 8. If the city of Boston shall sell or convey the property so granted, the entire proceeds of such sale or conveyance shall be used for the purchase of another suitable site and for the erection of necessary buildings to furnish accommodations for the education of deaf mutes. All of the above conditions shall be subject to the approval of the state board of education, and such property shall be used exclusively for the purpose of maintaining a school for the education of the deaf; but the purchaser of said property shall not, in any event, be bound to see to the application of the purchase money.

Restrictions on
use of land.
1885, 201, § 2.
1905, 487, § 2.

INDUSTRIAL SCHOOL.

SECT. 9. The city of Boston is hereby authorized to establish and maintain, or to contribute to the establishment and maintenance of, an institution for giving practical instruction in industrial occupations and in the arts and sciences allied therewith.

Mechanic arts
high school.
1900, 171.

PHYSICAL EDUCATION.

SECT. 10. The school committee of the city of Boston, within the limit of the appropriations for such purposes made by it as authorized in section twenty-one of chapter thirty-three of this consolidation or under existing authority of law, shall, during the summer vacation and such other part of the year as it may deem advisable, organize and conduct physical training and exercises, athletics, sports, games and play, and shall provide proper apparatus, equipment and facilities for the same in the buildings, yards and playgrounds under the control of said committee, or upon any other land which it may have the right to use for this purpose.

Instruction in
physical
training.
1907, 295, § 1.

SECT. 11. The said committee shall use for the purposes aforesaid such of the playgrounds, gymnasias or buildings under the control of the park commission of said city as the school committee may deem suitable therefor, and may equip the same therefor, such use to be subject however to such reasonable regulations and conditions as the park commission may prescribe: *provided*, that such use shall not extend to any playground, gymnasium or building under the control of the park commission which said commission shall by vote, approved by the mayor, declare to be unsuitable for such use.

Use of play-
grounds, etc.,
for.
1907, 295, § 2.

PUBLIC GYMNASIA.

Public gym-
nasia.
1897, 221.

SECT. 12. The city of Boston may establish public gymnasia, not exceeding one to each ward of the city, and may accept donations of lands or buildings fitted with gymnastic apparatus.

SCHOOL TEACHERS' RETIREMENT FUND.

Composition
of fund.
1900, 237, § 1.

SECT. 13. The teachers' retirement fund, which was created by the city of Boston under the provisions of chapter two hundred and thirty-seven of the acts of the year nineteen hundred, shall consist of:

(a.) A permanent fund made up of gifts and legacies specifically given to said permanent fund, and a sum set apart by the board of trustees.

(b.) A general fund made up of gifts and legacies not specifically given to said permanent fund, amounts retained from the salaries of teachers under the provisions of section seventeen and the interest derived from said permanent fund. The general fund may be drawn upon for the purposes specified in the eleven following sections by said board of trustees in its discretion.

Composition
of board of
trustees.
1900, 237, § 2.

SECT. 14. The superintendent of public schools in the city of Boston, three female teachers and three male teachers, also of said city, and holding positions in the public schools as instructors, and four members of the school committee of said city shall constitute the board of trustees. The superintendent of schools shall hold office in said board *ex officio*, and the other ten members shall be chosen as follows: annually, at a meeting duly called by said board of trustees on the last Saturday in October, one female teacher and one male teacher shall be elected by ballot for a term of three years, and a majority of all the votes cast shall be necessary in each case for an election; and, annually, at its first meeting in October the school committee shall elect two of its number to be members of said board for a period of two years. Said board shall organize by adopting rules of its own, not inconsistent with law, and, in case of a vacancy in its membership, shall have power to fill such vacancy for the unexpired term.

Powers and
duties of board
of trustees.
1900, 237, § 3.

SECT. 15. Said board shall have control of the retirement fund, investing the same only in such securities as savings banks are authorized by law to invest in. The board shall receive and consider all applications for annuities under this law and shall determine and direct payments of the same. The board shall keep full and complete records of the receipts and disbursements on account of this fund, and a complete list of all annuitants, and shall make a report of the same at each annual meeting of the teachers in October. All necessary expenses incurred by the board in carrying out the provisions of these sections shall be paid out of the retirement fund in accordance with votes of the board. The members of the board shall serve without compensation. Whenever any mem-

ber of the board shall cease to hold a position as member of the school committee of said city, or as teacher in the public schools, respectively, his or her membership in the board shall thereupon cease.

SECT. 16. The city treasurer, under the direction of the board of trustees shall be the custodian of the retirement fund, and shall make payments therefrom as ordered by the board. He shall receive such compensation for his services and clerk hire, not exceeding fifteen hundred dollars a year, as the board of trustees shall determine, and the sum so determined shall be appropriated for that purpose by the school committee of the city of Boston.

City treasurer to be custodian of the retirement fund. 1900, 237, § 4.

SECT. 17. Beginning with the monthly payments in November in the year nineteen hundred, the city treasurer of the city of Boston shall reserve from the salary of each teacher who has come under the provisions of chapter two hundred and thirty seven of the acts of the year nineteen hundred the sum of three dollars; and in every alternate monthly payment thereafter, shall reserve the same sum, and shall pay the sums so reserved into the school teachers' retirement fund as herein provided.

Sums to be reserved from salaries of teachers. 1900, 237, § 5.

SECT. 18. The city treasurer, upon vote of the board of trustees, shall pay out of said retirement fund in monthly payments, such an annuity to any teacher who shall retire or be discharged from the service of the city as the fund will allow and said board of trustees shall determine; but in no case shall a teacher receive such an annuity unless such teacher has taught for thirty years, and for at least ten years in the public day schools of the city of Boston, except as hereinafter provided.

Annuities to certain teachers. 1900, 237, § 6.

SECT. 19. The city treasurer, upon a vote of the board of trustees, shall pay out of the retirement fund, in monthly payments, such an annuity to any teacher who has taught not less than two years in the city of Boston, although less than thirty years in the aggregate, as the fund will allow and said board of trustees shall determine if such teacher has become incapacitated for teaching and has been discharged from the service of the city of Boston: *provided*, that a certificate of such incapacity be furnished by the attending physician and by a physician employed by the board of trustees.

Annuities to teachers incapacitated for teaching. 1900, 237, § 7.

SECT. 20. All annuities shall be uniform in amount, whether the annuitants are retired under the provisions of sections eighteen or nineteen of this chapter, except as provided in the following section.

Certain annuities to be uniform in amount. 1900, 237, § 8.

SECT. 21. No annuity shall be paid to any teacher until such teacher shall contribute or has contributed to the general fund a sum equal to all the assessments for thirty years, to wit, five hundred and forty dollars; but should any teacher seeking to retire under section eighteen or nineteen aforesaid be unable to pay the full amount of assessments as above specified, before receiving an annuity, the board of trustees may, in its discretion make to such retiring teacher such monthly payments as in the opinion of said board the needs of such teacher may require.

Amount of contribution essential to annuity. 1900, 237, § 9.

Repayment of
portion of
contribution.
1900, 237, § 10.

SECT. 22. Any teacher who shall have been a contributing member for two years or more, who shall retire from the service of the city of Boston, not being in receipt of an annuity, shall, upon application within three months after date of such retirement, receive one-half of the total amount paid by such teacher into said fund.

Teachers sub-
ject to provi-
sions of ten
preceding
sections.
1900, 237, § 11.

SECT. 23. The ten preceding sections shall be binding upon all teachers entering into the service of the city of Boston after the seventeenth day of April, in the year nineteen hundred, and upon such of the teachers in the service of said city at such date as shall elect in writing to come under its provisions; and notice in writing to the superintendent of schools signed by the teacher so electing shall be conclusive as to such election.

Definition of
teacher.
1900, 237, § 12.

SECT. 24. The term "teacher" in the eleven preceding sections shall include all superintendents of instruction, principals and regular instructors in the public day schools.

CHAPTER 49.

SEWERS AND DRAINS.

IN GENERAL.

SECTION

1. Construction of sewerage works.
2. Appropriations for connections with public sewer.
3. Street commissioners may order construction of sewers.
4. Taking of land and watercourses.
5. Superintendent of streets to construct sewerage works.
6. Damages.
7. Sewerage loan.
8. Assessment of cost upon estates benefited.
9. Revision of assessments.
10. Penalties for injuries to sewerage works.
11. Enforcement of preceding sections.
12. Abatement or suspension of sewer assessments.

SECTION

13. Suspension of assessments on land exempt from taxation.
14. Release of part of estate from lien.
15. Sewers for surface drainage.
16. Construction of sewerage within watershed of Charles river basin.
17. Preparation of plans.
18. Enforcement of preceding sections.

SEWER REGULATIONS.

19. Discharge of sewage into Dorchester bay restricted.
20. Discharge of Newton sewage into Boston sewers.
21. Penalty for unlawfully entering drain into Mystic valley sewer.
22. Injunction against unlawful use of sewers.
23. Control of Stony brook.

IN GENERAL.

Construction
of sewerage
works.
1892, 402, §§ 1, 2.
1897, 426, § 1.
1898, 257, § 1.
1899, 450, § 1.
1900, 478, § 3.
1903, 268, § 1.
177 Mass. 434.
183 Mass. 323.
188 Mass. 77.
190 Mass. 525.
193 Mass. 498.

SECTION 1. The city council by the affirmative vote of two thirds of all the members of each branch thereof, taken by a call of the yeas and nays, may annually appropriate, to be met by the issue of bonds as hereinafter provided, sums not exceeding one million dollars in any one year for constructing sewerage works in said city, and shall also appropriate, to be met by the annual income and taxes of said city, sums for

maintaining and operating the sewerage works, and such sums as the city treasurer of said city shall each year determine to be the amount to be used for interest on the bonds issued for sewerage works, and also the amount to be used for the sinking funds for bonds issued for sewerage works, which, with all other amounts so used, and their accumulations, will pay all such bonds at maturity; and there shall also be used for said sinking funds all premiums received from the sale of said bonds, and all amounts received for breach of any contract for constructing sewerage works, or for securities deposited as security for making such contracts and declared to be forfeited to the city, or for sales of property. All sewers, drains, pumping stations and other works for the collection or disposal of sewage, or surface or ground water in said city, shall be included in the term "sewerage work," as used in this section and in sections three, four, five, seven and ten of this chapter, and no such work shall hereafter be constructed in said city except under authority of this chapter. Any such sewerage work aforesaid may hereafter be constructed by the superintendent of streets of said city, or by such other officer as the mayor shall designate, in any public way or place, or in any land owned by the city or in which the city has acquired authority to lay such sewerage work; but, before commencing the construction of any sewer, the superintendent or officer shall cause to be recorded in the Suffolk registry of deeds a statement, approved by the mayor, of his intention to construct the sewer, naming the street or otherwise describing the land in which the sewer is to be constructed, and giving his estimate of the cost thereof.

SECT. 2. If, in the city of Boston, any loan is authorized for connecting estates within its limits with public sewers under the provisions of section thirty-one of chapter forty-nine of the Revised Laws, it shall be made only within the debt limit established for said city.

Appropriations for connections with public sewer.
1899, 819, § 1.
R. L. 49, § 31.

SECT. 3. The board of street commissioners of said city, from time to time, with the approval of the mayor, may order that sewers or drains be constructed in said city; that streams or watercourses within the limits of said city be filled up or diverted from their original channels; that any such channel or any new channel be widened, deepened, paved or covered; that closed or open sewers or conduits be constructed for the drainage of lands, or that any part of such stream or watercourse be so treated, or that any one or more of such things be done.

Street commissioners may order construction of sewers.
1873, 205, § 1.
1897, 426, § 2.
189 Mass. 328.

SECT. 4. Said board may take for said city, by purchase or otherwise, any lands in fee, and any rights or easements in lands, sewers, watercourses and ways, which said board may deem necessary for sewerage works, and in order to take any such lands, watercourses, rights or easements other than by purchase, said board, or a majority thereof, shall sign and cause to be recorded in the registry of deeds for the county of Suffolk a statement that the same are taken for sewerage works, describ-

Taking of lands and watercourses.
1873, 205, § 2.
1897, 426, § 3.

ing the same as certainly as is required in a common conveyance of land, and the land, watercourses, rights or easements so described shall, upon such recording, become the property of said city.

Superintendent of streets to construct sewerage works.
1892, 402, § 1.
1897, 426, § 4.
1906, 268, § 2.

SECT. 5. The superintendent of streets, or such other officer as the mayor of said city shall from time to time direct, shall construct sewerage works as authorized by section one, and shall carry out every such order of said board, and may at the expense of said city construct and maintain such work under or over any watercourse or private land, railroad or public way, in such manner as not to unnecessarily obstruct or impede public travel, and may alter or change the location or grade of any public way in which any such work is constructed, may alter or change the course of any watercourse, and in general may do any other act or thing deemed by him to be necessary in constructing or maintaining such work.

Damages.
1873, 206, § 2.
1897, 426, § 5.
1899, 450, § 2.
1900, 126.
186 Mass. 540.

SECT. 6. Said city shall pay all damages sustained by the owner of any land, watercourse, right or easement taken by said board, or injured in any manner, or by any person, in doing any act or thing under section five of this chapter, the same to be agreed upon by said board, with the approval of the mayor and said owner; and, if they cannot agree, the damages shall, on the petition of said owner or mayor, be determined by a jury of the superior court for the county of Middlesex or for the county of Suffolk in the manner provided by law with respect to lands taken for highways in said city of Boston, and costs shall be taxed and execution issued in favor of the prevailing party, as in civil cases. Any person whose land, right, easement or water rights are thus taken or injured may apply as aforesaid within three years from the time of such taking or injury, and not afterwards. In any case where a petition is filed by the mayor in the county of Middlesex, the cause shall be transferred to the county of Suffolk if the owner, within thirty days after the filing of said petition, shall file in the office of the clerk of courts for the county of Middlesex a statement in writing that he desires said cause to be tried in the county of Suffolk.

Sewerage loan.
1897, 426, § 6.
1898, 257, § 2.

SECT. 7. The treasurer of said city, to meet the expenses incurred in constructing any sewerage works hereafter ordered to be constructed in said city, shall from time to time on the request of said board, approved by the mayor, issue to the total amount appropriated, but not exceeding one million dollars in any one year, bonds of said city, registered or coupon, as said treasurer shall from time to time determine, and the same shall not be considered in determining the limit of indebtedness of said city; said bonds shall have printed on the face thereof the words—Sewerage Loan—; shall be countersigned by the mayor and be made payable in terms of thirty years from their date; and shall bear such rates of interest not exceeding four per cent. per annum, payable semi-annually on the first day of January and the first day of July of each year, and be issued and disposed of in such amounts, in such modes, and at such times and

prices, as said treasurer with the approval of the mayor shall from time to time determine.

SECT. 8. The board of street commissioners of said city at any time within two years after any new sewer or drain for the collection or disposal of sewage or of surface or ground water is completed, shall assess upon the several estates especially benefited by such sewer or drain, a proportional part of the cost thereof, not exceeding in amount the sum of four dollars per linear foot. Any such assessment which shall be found to be invalid and is unpaid, or which shall have been recovered back, may be reassessed by said board to the amount for which and to the person to whom the original assessment ought to have been made. Every such reassessment and every such original assessment shall be a lien upon the estate assessed or reassessed for two years after such assessment or reassessment, and shall be collected and paid into the city treasury in conformity with the provisions of section twelve of chapter fifty-one of this consolidation. Said board may assess upon any estate heretofore or hereafter connected with a public sewer a reasonable part of the cost of construction thereof: *provided*, that no owner of the estate has paid for such sewer or has paid any assessment for its construction. Every such assessment may be revised and corrected by said board of street commissioners, subject to the provisions of the following section, and such assessments and revised and corrected assessments shall be subject to an appeal to the superior court in the manner provided for appeals from the board of assessors in the case of taxes, and they shall not be affected by the provisions of the statute requiring the filing of a list of estates liable to taxation as a prerequisite to an appeal.

Assessment
of cost upon
estates
benefited.
1892, 402, § 3.
1894, 256.
1897, 426, § 7.
1899, 450, § 3.
170 Mass. 96.
173 Mass. 350.
176 Mass. 247.
177 Mass. 434.
183 Mass. 338.
188 Mass. 487.
190 Mass. 525.
193 Mass. 498.

SECT. 9. The owner of any real estate in the city of Boston on which any betterment assessment authorized by law shall have been made may apply to the board which made the assessment for a revision thereof: *provided*, that any part of the same remains unpaid or shall have been paid under protest, and that an application to revise an assessment shall be filed with the board within one year after the board gives notice that the assessment has been made; and the board, within two months thereafter, shall revise or refuse to revise the assessment. If a revision is made, any excess of the original assessment over the revised assessment shall be abated by the board; and, if any part of such excess shall have been paid under protest, the board shall issue a certificate of the abatement to the treasurer of the city, who shall thereupon repay such part to the person for whom the assessment was paid, or to his legal representative, and charge the same to the appropriation for the work on account of which the assessment was made.

Revision of
assessments.
1908, 235.

SECT. 10. No person shall destroy or injure any sewerage work of said city, or, without lawful authority therefor, pollute or place or maintain any obstruction in any natural watercourse therein; and whoever violates any provision of this section

Penalties for
injuries to
sewerage
works.
1897, 426, § 9.

shall for each offence be punished by a fine not exceeding one thousand dollars or by imprisonment in the house of correction not exceeding six months, or by both such fine and imprisonment.

Enforcement of preceding sections.
1897, 428, § 10.

SECT. 11. The supreme judicial court and any justice thereof, and the superior court and any justice thereof, shall have jurisdiction in equity, on the complaint of said city by its attorney, to enforce the provisions of the eight preceding sections and to prevent any violation thereof.

Abatement or suspension of sewer assessments.
1896, 359.
173 Mass. 28, § 1.

SECT. 12. The board of street commissioners of the city of Boston, in addition to any other authority conferred upon them to abate sewer assessments upon estates in said city, shall, with the approval of the mayor, have full power and authority, upon complaint of any person interested in the premises so assessed, to make such abatements or suspensions of the collection of assessments for the construction of sewers as they may deem just and proper, and may make the abatement upon the whole amount of the assessment at once, or upon the amount of any apportionment included in a tax bill or tax bills. Any such assessment so abated or suspended shall continue a lien upon the estate on which the assessment is made until the same is paid.

Suspension of assessment on land exempt from taxation.
1892, 402, § 4.
170 Mass. 95, 102.

SECT. 13. When an assessment is made for a parcel of land for which the owner is by law exempt from being taxed, as determined and certified to by the assessors of said city on application to them therefor, the collector of taxes of said city shall suspend the collection of such assessment, but after the day on which the parcel ceases to be owned by a person or corporation so exempt, the amount of such assessment, shall be collected as if that day were the date of the passage of the aforesaid order for making the sewer.

Release of part of estate from lien.
1895, 297.

SECT. 14. The owner of any estate in the city of Boston on which an assessment has been made for the construction of any sewer in said city may pay a part of such assessment; and the board of street commissioners of said city may then, at their discretion, with the approval of the mayor, relieve a proportional part of said estate from further lien and liability for said assessment, and the remainder of said assessment shall continue to be a lien on the remaining part of said estate and be assessed and collected in the manner provided by law for the entire assessment so far as applicable.

Sewers for surface drainage.
1902, 526.
188 Mass. 77.

SECT. 15. The expense of the construction and maintenance of sewers in the city of Boston designed for the disposal of surface drainage solely shall be borne wholly by the said city.

Construction of sewerage within watershed of Charles river basin.
1907, 485, § 1.

SECT. 16. The city of Boston shall, in the year nineteen hundred and seven, expend one hundred thousand dollars, and in each year for the next five years, expend one twentieth of one per cent. of its taxable valuation, to be met by loan outside the debt limit, in the construction of works for the separation of the sewage from the surface or storm water, or other waters as defined by chapter three hundred and eighty-three of the acts of the year nineteen hundred and three, within the watershed

of Stony brook and other watershed areas tributary to the Charles river basin above the dam now under construction between Boston and Cambridge. All sewers, drains, channels, pumping stations and other works for the collection or disposal of sewage or surface or ground water in said areas shall be included in the term "sewerage works" as used in the following section.

SECT. 17. No work shall be done under the authority of the preceding section in any district or section within the watershed of Stony brook and the other watershed areas herein described until general plans for the disposal of the sewage and of surface or ground water of that district or section have been presented to and filed with and approved by a board to consist of the chairman of the state board of health, the chairman of the board of health of the city of Boston and the city engineer of said city; and no work shall be done in any part of said Stony brook watershed and the other watersheds herein described except in accordance with plans which have been approved as above provided, and in such streets or areas as may be designated in writing by said approving board. The officer or board having charge of the construction of sewerage works in the city of Boston shall first file with the said board a plan showing definitely the existing sewers and drains within the watershed of Stony brook and the other drainage areas herein described, or in such portion of said watersheds and districts as said approving board may from time to time designate, and said officer or board shall, on or before the thirtieth day of November in each year, file with the state board of health a statement and plan for record showing clearly the sewers, drains or other sewerage works which have been constructed within the preceding twelve months.

Preparation
of plans.
1907, 486, § 2.

SECT. 18. The supreme judicial court or any justice thereof, and the superior court or any justice thereof, shall have jurisdiction in equity, on the complaint of the state board of health or of any party in interest, to enforce the provisions of the two preceding sections and prevent any violation thereof.

Enforcement
of preceding
sections.
1907, 486, § 3.

SEWER REGULATIONS.

SECT. 19. No part of the contents of the main sewer running southeasterly from the direction of Charles river in the city of Boston shall be discharged at or near the shore of Calf pasture, so called, in Dorchester bay or at any place in Boston harbor or vicinity except at Moon island. The supreme judicial court or any justice thereof, upon the petition of not less than ten taxable inhabitants of the city of Boston may restrain, by injunction or otherwise, any violation of the provisions of this section.

Discharge of
sewage into
Dorchester
bay restricted.
1882, 256.

SECT. 20. If the city of Newton and the city of Boston shall so agree, the city of Newton may deliver sewage from its sewers now constructed or hereafter to be constructed in the easterly part of said city, and ground and surface water from conduits therefor now constructed or hereafter to be constructed in said

Discharge of
Newton
sewage into
Boston sewers.
1899, 89.

Penalty for
unlawfully
entering drain
into Mystic
valley sewer.
1875, 202, § 10.

part of said city, and the city of Boston may receive into its sewers and conduits said sewage and water, and dispose of the same under such agreement or agreements as have been or shall hereafter be made by said cities.

SECT. 21. If any town, corporation, person or persons, shall, contrary to the provisions of chapter two hundred and two of the acts of the year eighteen hundred and seventy-five, enter any drain or sewer, or conduct any sewage or drainage matter or pollution of any kind, into any drain or sewer constructed by the city of Boston by virtue of said act, or into any watercourse, stream or channel, natural or artificial, connected therewith, or shall wantonly or maliciously injure or destroy, or divert or obstruct any such drain or sewer, or destroy or injure any machinery or property held, owned or used by the said city by the authority and for the purposes of said act, such town, corporation, person or persons shall forfeit and pay to said city of Boston three times the amount of the damages that shall be assessed therefor, to be recovered in any proper action.

Injunction
against
unlawful use
of sewers.
1875, 202, § 11.

SECT. 22. It shall be lawful for the supreme judicial court, upon application of the city of Boston, to grant an injunction against any unlawful use of, or interference by any one with, any sewers or drains constructed by the city of Boston under chapter two hundred and two of the acts of the year eighteen hundred and seventy-five, or against the unlawful entry of any drain or sewer, directly or indirectly, into the same, or into any drain, sewer or watercourse connected therewith, or against the unlawful pollution or corruption of the Upper Mystic pond, or its head waters, or of any pond or stream flowing into or connected with the same; and damages therefor may be assessed by said court as incident to such process.

Control of
Stony brook.
1874, 196, § 8.

SECT. 23. Stony brook and its tributaries flowing within the city of Boston shall be and remain under the control of said city.

CHAPTER 50.

SIDEWALKS.

SECTION

1. Construction of sidewalks.
2. Damages and benefits.

SECTION

3. Release of part of estate from lien.
4. Sidewalks in unaccepted streets.

Construction
of sidewalks.
1799, 31, § 1.
1831, 17.
1833, 123.
1872, 309.
P. S. 50, § 22.
1893, 437, § 1.
142 Mass. 200.
166 Mass. 418.
170 Mass. 96,
102.

SECTION 1. The board of aldermen of the city of Boston may order the grading and construction of sidewalks, and the completion of any partially constructed sidewalk in any accepted street of such city as the public convenience may require, with or without edgestones, as said board shall deem expedient, and may cover the same with brick, flat stones, concrete, gravel or other appropriate material, and may assess upon the abutters on such sidewalks in just pro-

portions, not exceeding one half of the expense of the same; but all assessments so made shall constitute a lien upon the abutting land, and be collected in the same manner as taxes on real estate are collected; and such sidewalks, when constructed with edgestones and covered with brick, flat stones or concrete shall afterwards be maintained at the expense of such city. When any such sidewalk shall be permanently constructed with edgestones and covered with brick, flat stones or concrete, as aforesaid, there shall be deducted from the assessment therefor any sum which shall have been previously assessed upon the abutting premises and paid to the city for the expense of the construction of the same in any other manner than with edgestones, and with brick, flat stones or concrete, as aforesaid; and such deduction shall be made *pro rata* and in just proportions from the assessments upon different abutters who at the time of such assessments are owners of the estate which, at the time of such former assessments, was the estate of the abutters who had previously paid such former assessments.

SECT. 2. In estimating the damage sustained by any party by the construction of sidewalks as aforesaid, there shall be allowed by way of set-off the benefit, if any, to the property of the party by reason thereof.

SECT. 3. The owner of any estate in the city of Boston on which an assessment has been made for the construction of any sidewalk in said city may pay a part of such assessment, and the board of street commissioners of said city may then at their discretion, with the approval of the mayor, relieve a proportional part of said estate from further lien and liability for said assessment, and the remainder of said assessment shall continue to be a lien on the remaining part of said estate and be assessed and collected in the manner provided by law for the entire assessment, so far as applicable.

SECT. 4. When any street or way which now is or hereafter shall be opened in the city of Boston over any private land by the owners thereof and dedicated to, or permitted to be used by, the public before such street shall have been accepted and laid out according to law, it shall be the duty of the owners of lots abutting thereon to construct convenient sidewalks on each side of such street or way at their own expense, in such manner as the safety and convenience of the public shall, in the opinion of the mayor and aldermen of said city, require; and, if the owners of such abutting lots shall, after reasonable notice given by the said mayor and aldermen, neglect or refuse to construct said sidewalks in such street or way, in manner aforesaid, it shall be lawful for the said mayor and aldermen to cause the same to be constructed as aforesaid; and the expense thereof shall, after due notice to the parties interested, be equitably assessed upon the owners of such abutting lots by the said mayor and aldermen in such proportions as they shall judge reasonable; and all assessments so made shall be a lien upon such abutting lands, in like manner as taxes are a lien upon real

Damages and
benefits.
1883, 487, § 2.

Release of part
of estate from
lien.
1886, 297.

Sidewalks
in unaccepted
streets.
1849, 133, § 1.
149 Mass. 468.

estate; provided always that nothing contained in this section shall be construed to affect any agreement made prior to the twenty-second day of May in the year eighteen hundred and forty-nine respecting any such street or way, as aforesaid, between such owners and said city; *provided*, also, that any such constructing of sidewalks in any street or way by the mayor and aldermen, as aforesaid, shall not be construed to be an acceptance of such street or way by the city of Boston.

CHAPTER 51.

STREETS AND WAYS.

PREPARATION AND FILING OF PLANS.

SECTION

1. Preparation of plans, etc.
2. Entry upon lands.
3. Effect of preceding sections.
4. New plans.

LOCATION, RELOCATION, ALTERATION, WIDENING, DISCONTINUANCE AND CONSTRUCTION OF WAYS.

5. Definition of terms.
6. Public improvements, how made.
7. Superintendent of streets, etc., to carry out orders of board.
8. Disturbance of streets and work thereon regulated.
9. Assessment of benefits, reassessment of invalid assessments and revision of assessments.
10. Method of defraying expense of construction.
11. Determination of amount of assessments by a jury.
12. Interest, apportionment and collection of assessments.
13. Interest on assessments and damages. Division of assessments.
14. Release of part of estate from lien.
15. Effect of preceding sections.
16. Limitation on opening of ways.
17. Effect of repeal of certain statutes.
18. Credits to be paid into sinking funds.

SPECIFIC REPAIRS.

19. Specific repairs.
20. Estimate of damages.
21. Application for a jury. View.

PRIVATE WAYS AND THEIR ACCEPTANCE.

22. Laying out of unaccepted ways.
23. Paving or reconstruction of said street.

TAKING OF LAND FOR SANITARY PURPOSES.

SECTION

24. Board may take land for sanitary purposes.
25. Damages.

STREET REGULATIONS.

26. Names of streets regulated.
27. Board of street commissioners to fix names of streets.
28. Ordinances as to shape and size of vehicles.
29. Signs and other encroachments restricted.
30. Use of streets for sale of merchandise regulated.
31. Proceedings upon applications for licenses.
32. Reference of application to police commissioner.
33. Issuance of license.
34. Terms of licenses and renewals thereof.
35. Fees for licenses.
36. Record of licenses to be kept.
37. Designation of districts for hawkers and pedlars.
38. Penalties.
39. Exemption of city from liability for defects in public alleys.

WATERING STREETS.

40. Division of city into watering districts.
41. Determination of amount of assessments.
42. Abatement of unreasonable assessments.
43. Collection of watering rates.

PREPARATION AND FILING OF PLANS.

Preparation
of plans, etc.
1891, 223, § 5.
1892, 418, § 2.
1895, 449, § 23.
1896, 204.
1896, 338, § 11.
181 Mass. 483.

SECTION 1. The board of street commissioners shall, with all reasonable dispatch, cause to be made under its direction plans of such territory or sections of land in the city of Boston as said board may deem necessary, showing thereon the location

of such highway or the location of such highways, whether already laid out or not, as said board shall be of opinion, the present or future interests of the public will require in each territory, showing clearly the directions, width and grade of each highway, and may employ such assistants and incur such expenses as it may deem necessary therefor. Said board, before making any such plan, shall give a public hearing as to the locations, directions, widths and grades for the highway or highways in the territory to be shown on the plan, after advertising a notice of such hearing twice a week for two weeks in succession in at least two daily newspapers published in said city, the last advertisement to be at least two days before such hearing, and shall, after making any such plan, give a like notice and hearing thereon, and keep the plan open to public inspection for two months after the first advertisement of such hearing. Such plan thereafter, and after alterations deemed necessary by said board have been made thereon, shall be marked as made under the provisions of this section, be signed by said board, and if approved by the mayor of said city, be signed by him; and after being so signed and approved, shall be filed in the office of the city engineer of said city, signed, and the date of said filing attested by said city engineer. Nothing in this section shall invalidate or affect any plan or plans filed by the board of survey before the sixteenth day of June in the year eighteen hundred and ninety-two. Any plan found in the office of the city engineer bearing the signatures of two or more persons as the board of survey, or board of street commissioners, the signature of a person as mayor and the signature of a person as the city surveyor or the city engineer shall be *prima facie* evidence that the plan and all the data above specified made thereon were made under the authority of and in accordance with the provisions of this section.

SECT. 2. Said board, its officers and agents may, so far as they deem it necessary in carrying out the aforesaid provisions, enter into and upon any lands, and there make such examinations and surveys, and place and maintain such monuments and marks, as and where they may deem necessary; and any person injured in his property by such entry or by such placing and maintaining may have a jury, and may have the damages sustained by such injury determined by such jury and paid in the manner and under the rules of law provided for obtaining juries and for determining and paying damages sustained in laying out highways in the city of Boston.

SECT. 3. The preceding sections shall not be construed to authorize any taking or condemnation of land or to render said city liable for damages of any kind except for making entries upon land and for placing and maintaining monuments and marks as provided in section one nor to authorize the city of Boston to work or construct any way located on any of said plans until such way shall have been thereafter laid out as a highway as hereinafter provided.

Entry upon
lands.
1891, 323, § 6.
1896, 449, § 23.
1896, 204.

Effect of
preceding
sections.
1891, 323, § 7.
1896, 449, § 23.
1896, 204.

New plans.
1898, 210, § 1.

SECT. 4. The board of street commissioners of the city of Boston from time to time, after public notice and a hearing, and with the approval of the mayor, may make a new plan or plans to take the place of any plan that has been made by the board of survey of said city or that has been or may hereafter be made by the board of street commissioners under the authority of section one or under any other authority, and may make changes on any plan or plans that have been or that may hereafter be made as aforesaid to take the place of any plan aforesaid and the last plan so made, or the plan with the changes last made thereon, being filed in the office of the city engineer of said city, shall be the plan in accordance with which all highways within the territory shown on such plan shall be laid out, located anew, altered, widened or constructed.

LOCATION, RELOCATION, ALTERATION, WIDENING, DISCONTINUANCE AND CONSTRUCTION OF WAYS.

Definition of
terms.
1891, 323, §§ 10,
11.
1892, 418, § 6.
1896, 237, § 1.
1898, 236, § 1.
1902, 521.
1906, 395, § 1.

SECT. 5. Every highway in the city of Boston shall be laid out, relocated, altered, widened, discontinued or constructed only as provided in chapter three hundred and ninety-three of the acts of the year nineteen hundred and six or as provided in some other special act for a highway named therein; and in said first named act and in sections six, seven, eight, nine, twelve, fifteen or sixteen of this chapter the word "highway" means any public way which has become such through the act of a board or other authority or in any other manner; the words "public alley" mean any alley or passageway not exceeding twenty-five feet in width, laid out and assessed as a public alley by an order of the board of street commissioners of said city under chapter 298 of 1898; the words "parcel of real estate" mean any lot of real estate a part of which is within one hundred and twenty-five feet of a highway or public alley ordered by said board to be laid out, relocated, altered, widened, discontinued or constructed, as the lot was on the day of the first publication of notice of the intention to make the improvement, or on the day of passing the order therefor, if there is no such publication, including any lot a part of which is taken and any lot a part or the whole of which is leased, and excluding any land within any location of a railroad company, and any lot situated on another way having the same general direction with the highway or public alley and not more than two hundred and fifty feet distant therefrom, if no part of such lot is between the highway or public alley and a line drawn midway between the same and said other way.

Public
improvements,
how made.
1799, 31, § 3.
1804, 73.
1816, 90, § 1.
1821, 109, § 11.
R. S. 24, § 54.
1852, 266, § 3.
1854, 448, § 33.
G. S. 43, § 77.
1370, 337, §§ 2, 3.

SECT. 6. Whenever said board of street commissioners shall be of opinion that in said city a public improvement should be made, consisting of laying out, relocating, altering, widening or discontinuing, with or without construction of sewer, or of changing the grade of, or constructing, with or without sewer, a highway or public alley, the board shall appoint a time for a public hearing and cause a notice thereof and of their intention

in the matter to be published twice a week for two successive weeks in two daily newspapers published in said city, the last publication to be at least seven days prior to the time fixed for the hearing, and may adjourn the hearing from time to time. After the hearing, the board may pass an order for making any such improvement that in the opinion of the board is required by public convenience, and in the order shall prescribe the lines, dimensions and grades for a highway shown on any plan filed under the provisions of section five of chapter three hundred and twenty-three of the acts of the year eighteen hundred and ninety-one, or of section one of this chapter, and for any not so shown shall prescribe as it deems proper. The board on the same day shall pass another order and therein shall determine and award the damages to be paid by the city to each person whose property is taken for the improvement, shall estimate the benefit or advantage to each parcel of real estate from the whole or a part of the improvement beyond the general advantage to all real estate in said city; and if a highway is to be constructed, shall prescribe the sizes and materials for the gas pipes and connections to be laid therein, and if the gas company authorized to lay the pipes shall certify to the board the sizes and materials therefor, the board shall prescribe in accordance with the certificate. Said orders shall be null and void unless they shall both be approved in writing by the mayor within three months after the first publication of the notice above specified; and if so approved they shall then be recorded in the records of the board, take effect and be carried out. After such approval by the mayor and recording in said records, the board shall cause to be recorded in the registry of deeds for the county of Suffolk the order for the improvement, but not the other order, and such recording shall constitute the taking of land required for the improvement, and the board, with the approval of the mayor, may at any time thereafter make a new award or new awards. Any person interested, if aggrieved by any award made by said board, may, before the expiration of one year after the work is actually begun on the improvement in front of the property affected, file a petition in the office of the clerk of the superior court for the county of Suffolk for a jury to determine the damages, and they shall then be determined by such jury, and all general laws relating to such damages and the determination and payment thereof shall, so far as they are consistent with said act, apply to damages for the property taken as aforesaid. Judgment shall be entered on such determination by a jury, costs taxed and execution issued as in civil cases.

SECT. 7. The superintendent of streets of said city, or other officer of the city authorized thereto by the mayor, as such superintendent or officer deems proper, whether as prescribed in the order or otherwise, but substantially in accordance therewith, shall carry out every order passed by any authority in said city authorized thereto, for making any public improvement

1878, 75, § 1, 2.
P. S. 49, § 84.
1888, 397.
1891, 323, § 10.
1892, 418, § 5.
1895, 494, § 1.
1898, 298, § 1.
R. L. 48, § 88.
1902, 521.
1906, 393, § 2.
11 Mass. 447.
1 Pick. 418.
2 Pick. 162.
8 Pick. 218.
15 Pick. 198.
16 Pick. 442.
504, 508.
20 Pick. 407.
2 Met. 220.
108 Mass. 196.
200.
120 Mass. 300.

Superintendent of streets, etc., to carry out orders of board.
1891, 323, § 12.
1895, 494, § 2.
1902, 521.
1906, 214, § 1.
1906, 393, § 8.

specified in the preceding section, or consisting of the construction of a sewer or sidewalk; shall, if the order is for laying out, relocating, altering or widening a highway, and not for construction, remove obstructions therefrom and make temporary roadbeds and sidewalks therein and construct sewers therein if the order so requires; shall, if the order is for construction of a sewer, public alley or sidewalk, construct the same, and sewers in the alley if the order so requires; and shall, if the order is for construction of a highway, give public notice by advertisement twice a week for two successive weeks in two daily newspapers published in said city that all work which is to be done therein shall be done before a day specified in the notice, which day shall be at least three weeks after there is such highway, and shall, at least three weeks before said day, send a copy of said notice to the gas company authorized to lay gas pipes therein, and after said specified day, shall construct permanent roadways, sidewalks and other details of construction therein, and sewers therein if the order so requires, and connections of the sewers to the line of the way. If the gas company neglects or refuses to lay its pipes before said day, the superintendent shall furnish and lay the pipes as prescribed in the order and connect them with pipes then in use, and the company shall pay to the city the cost thereof as agreed upon with such superintendent or other officer, or as determined by the court. The city may furnish materials required in doing the work under any such order, and shall do the remainder of the work, by contract or otherwise, as the mayor shall approve in writing; and whenever any contract is to be made the estimated cost of which exceeds two thousand dollars, the superintendent or other officer, unless he causes a certificate that advertisements should be dispensed with, signed by him and approved in writing by the mayor, with his reasons therefor, to be filed with the city auditor, shall publish twice a week for two successive weeks in four daily newspapers published in said city, advertisements for proposals for doing the work under the contract, and in the advertisements shall state the time and place for opening the proposals, and shall state that each proposal must be accompanied by a suitable bond, certified check, or other security for the faithful performance of the proposal, and that he reserves the right to reject any or all proposals. Every such proposal shall be accompanied by the security aforesaid, and after being opened shall be kept for six months subject to public inspection. Every such contract shall be in writing, and shall be approved in writing by the mayor before being of any effect; shall, with a suitable bond, certified check, or other security for the faithful performance of the contract, be deposited with the city auditor, and shall be altered only by agreement in writing of the contractor, the officer or board making the contract, the sureties on said bond, and the mayor.

SECT. 8. Said superintendent shall not do, or permit to be done, any of the work above described in any year after the

Proposals for
work.
1852, 266, § 8.
1870, 587, § 2.

Disturbance
of streets and
work thereon
regulated.
1906, 393, § 4.

fifteenth day of November, unless he certifies, in a writing approved by the mayor and kept on file in the office of said superintendent, that public necessity requires the work to be done. After the construction of the highway, said superintendent shall not, for the space of two years, permit any department or person to disturb the surface thereof, except in case of obvious necessity, to be certified to in a writing to be approved and kept as hereinbefore provided, and except in cases of breaks or leaks in pipes, sewers or wires; but, after said two years, said superintendent may in his discretion permit openings to be made.

SECT. 9. Said board, within two years after the completion of any improvement specified in section six, shall determine the value of the benefit or advantage aforesaid to each parcel of real estate beyond the general advantage to all real estate in the city, from the whole or a part of the improvement, shall determine as the assessable cost of the improvement such part, not exceeding one-half, as the board shall deem just, of the expenses incurred by the city for such whole or part of the improvement, exclusive of the excess above four dollars per linear foot of the expenses for sewers and their connections, and exclusive of all the expenses for surface drainage and for water pipes, gas pipes, and their connections, and shall assess on each parcel a proportional share of said assessable cost, not exceeding the value of said benefit to the parcel as estimated or determined as aforesaid. If such assessment is invalid, and has not been paid or has been recovered back, it may be reassessed by said board to the amount for which, and upon the real estate upon which, the original assessment ought to have been made, and any alienation of real estate assessed shall not affect any reassessment thereon made within one year after the first assessment has been found by the court to be invalid. The owner of any real estate in said city, within one year after the making of any such assessment on such estate, may file with the board an application for a revision thereof, and the board within two months after such filing, shall, if necessary to make it conform to the provisions of this section, revise and reduce the amount thereof. The revised amount shall be the amount of the assessment, and the excess of any amount paid therefor over the revised amount shall, on the certificate of the board, be repaid by the treasurer of the city from the appropriation from which the improvement was paid for, to the person for whom the payment was made, or to his legal representatives.

SECT. 10. The expenses incurred in laying out, relocating, altering or widening any public way in the city of Boston except those ways constructed under some special act in which a contrary provision is made, shall be paid either from appropriations made for that purpose by the city council or from the proceeds of loans for that purpose authorized from time to time by an affirmative vote of two thirds of all the members of each branch of the city council taken by a call of yeas and nays,

Assessment
of benefits,
reassessment
of invalid
assessments
and revision of
assessments.
1881, 323, § 14.
1882, 418, § 7.
1889, 453.
1900, 478, § 2.
1902, 521.
1908, 235.
1906, 398, § 5.
183 Mass. 348.

Method of
defraying
expense of
construction.
1901, 199.
1906, 214, § 1.

such loans and the bonds sold and issued therefor to be within the debt limit.

Determination
of amount of
assessments
by a jury.

1891, 323, § 15.
1892, 418, § 8.
1902, 521.
1906, 398, § 6.

SECT. 11. The owner of any real estate on which any assessment specified in section nine shall have been made and not wholly paid, or paid under protest and a suit, brought within three months after the payment for recovery thereof, be pending, may, on such notice as the court shall order, have the amount of the assessment determined by a jury at the bar of the superior court for the county of Suffolk, on petition therefor, filed in the clerk's office of said court within one year after the making of the assessment; and, if either party requests it, the jury shall view the premises. If the amount so determined is less than the amount fixed by the board, the petitioner shall be entitled to costs; otherwise, the city shall be entitled to costs; and if no part of the assessment has been paid, or if the amount thereof paid is less than the amount so determined, judgment shall be entered for the city for the amount so determined, less any amount paid, with interest on the remainder, and plus the amount of the costs in case the city is entitled to costs, and less the amount of the costs in case the petitioner is entitled to costs; and execution shall issue for the amount of the judgment. But if the assessment, or any part thereof, has been paid and is in excess of the amount determined by the jury, the amount of the excess with interest from the date of payment, plus the amount of the costs, shall, on the certificate of said board, be repaid by the treasurer of the city from the appropriation from which the improvement was paid for, to the person for whom the payment was made, or to his legal representative.

Interest,
apportionment
and collection
of assessments.

1891, 323, § 16.
1892, 418, § 9.
1898, 252.
1902, 521.
1906, 398, § 7.

SECT. 12. Every assessment for an improvement specified in section six shall bear interest until paid, from the day when it is payable, which shall be the thirtieth day after it is made, and if not paid before the first day of September of the year next after the year in which it is made, the assessors of said city shall include in the annual tax bills for the parcel, or in separate bills, annually, until the assessment is paid, a sum not exceeding ten per cent. of the amount thereof, and shall also include in the bill for the first year interest on said amount from the thirtieth day after the assessment is made to the last day of October of such year, and in the bill for each year thereafter one year's interest on the amount of the assessment remaining unpaid; or, if the parcel has been divided as hereinafter provided, the assessors shall include the several apportionments, and their proportions of interest in the annual tax bills for the divisions, or in separate bills, and every amount in any such bill shall be collected and paid into the city treasury in the same manner in which taxes are collected and paid.

Interest on
assessments
and damages.
Division of
assessments.

1891, 323, §§ 16,
17.

SECT. 13. Assessments and damages for the public improvements aforesaid ordered after the fifteenth day of June in the year nineteen hundred and six shall bear interest at the rate of four per cent. per annum for damages, from the day of taking,

and for assessments as hereinbefore provided. Assessments on real estate exempt by law from taxation, as determined and certified by the assessors of said city on application to them therefor by the owner, shall not be payable or bear interest until the day on which the estate ceases to be so exempt. Assessments, or so much as remains unpaid, on real estate divided shall, on request of the owner of any part thereof, or of the city collector, forthwith be apportioned by the board of assessors to the several parts in proportion to the values of the respective benefits thereto from said improvement, as determined by said board of street commissioners. Assessments with interest shall, until paid, be a lien on the real estate on which they are assessed, from the day of the first publication of notice of the intention to make the improvement for which the assessment is made, or from the day of the passage of the order for the improvement, if there is no such publication: *provided, however*, that in case of an apportionment, as aforesaid, only the amount of the apportionment and interest shall, until paid, be a lien on the part to which it is apportioned.

1892, 418, §§ 9,
10.
1896, 237, § 3.
1898, 252.
1902, 521.
1906, 338, § 8.

SECT. 14. The owner of any estate in the city of Boston on which an assessment has been made for the construction of a highway in said city may pay a part of such assessment, and the board of street commissioners of said city may then at their discretion, with the approval of the mayor, relieve a proportional part of said estate from further lien and liability for said assessment, and the remainder of said assessment shall continue to be a lien on the remaining part of said estate and be assessed and collected in the manner provided by law for the entire assessment so far as applicable.

Release of part
of estate from
lien.
1896, 297.

SECT. 15. The provisions of sections five, six, seven, eight, nine, eleven, twelve and thirteen of this chapter shall not apply to any improvements specified therein completed by said city before the fifteenth day of June in the year nineteen hundred and six nor to any such improvement ordered before said date so far as section six requires that said board of street commissioners shall estimate on the same day on which the order for the improvement is passed the benefit or advantage to each parcel of real estate from the whole or a part of the improvement, and said sections shall not affect any assessment made prior to said date therefor or the making of any assessment therefor, or the collection of any such assessment. All such improvements ordered to be made before the twenty-seventh day of June, nineteen hundred and two, the construction of which was not completed until after that date, are to be assessed under said sections or under chapter five hundred and twenty-one of the acts of the year nineteen hundred and two, but the omission to make any estimate of the benefit or advantage by an order passed the same day the improvement was ordered shall not in any way invalidate or affect the assessment.

Effect of pre-
ceding sec-
tions.
1902, 521, § 8.
1906, 338, § 9.

SECT. 16. No person or corporation shall prepare or open for public travel in the city of Boston any way, unless its

Limitation
on opening of
ways.
1901, 323, § 8.

1892, 418, § 3.
1906, 898, § 10.

location, direction, width and grades are satisfactory to and have been approved in writing by said board of street commissioners, but all highways in the territory shown on any plan heretofore made by the board of survey or by said street commissioners under the authority of chapter three hundred and twenty-three of the acts of the year eighteen hundred and ninety-one shall be in accordance with the location, direction, width and grades shown thereon; and no public sewer, drain, water pipe or lamp shall be placed in, or public work of any kind done on, any way in any such territory other than in or on the ways shown on the plan or plans of such territory: *provided, however*, that this provision shall not prevent the laying of a trunk sewer or a water or gas main as engineering demands shall require.

Effect of repeal
of certain
statutes.
1906, 214, § 2.
1906, 898, § 11.

SECT. 17. The repeal by chapters two hundred and fourteen and three hundred and ninety-three of the acts of the year nineteen hundred and six, of chapter three hundred and twenty-three of the acts of the year eighteen hundred and ninety-one, and acts amendatory thereof, chapter two hundred and sixty-eight of the acts of the year eighteen hundred and ninety-five, chapter three hundred and thirty-four of the acts of the year eighteen hundred and ninety-five, chapter three hundred and nineteen of the acts of the year eighteen hundred and ninety-seven, chapter four hundred and forty-three of the acts of the year eighteen hundred and ninety-nine and chapter five hundred and twenty-one of the acts of the year nineteen hundred and two, shall not in any way affect the validity of any loans, bonds, notes or certificates of indebtedness issued under authority of said statutes, or any acts or doings of the street commissioners under said statutes, or any betterments assessed under said statutes, or the powers of the street commissioners of the city of Boston, given to them by chapter two hundred and four of the acts of the year eighteen hundred and ninety-six.

Credits to be
paid into sink-
ing funds.
1906, 214, § 8.

SECT. 18. All amounts, sums and apportionments received by the treasurer of said city from any assessments laid or to be laid on account of betterments from public improvements, the expenses of which were paid for by the proceeds of the loan or loans referred to in section ten (known as highways, improvement of, loan) shall be paid to the board of commissioners of sinking funds of said city, to be by them credited to the sinking funds established for said loan or loans. The interest and any deficiency in the sinking fund of said loan or loans shall be raised by taxation under the provisions of section twelve of chapter twenty-seven of the Revised Laws.

SPECIFIC REPAIRS.

Specific
repairs.
1821, 109, § 11.
R. S. 24, § 54.
1842, 86.
1854, 448, § 23.
G. S. 43, § 77.
1870, 337, § 2.
P. S. 49, § 48.

SECT. 19. The board of street commissioners of the city of Boston may order specific repairs on highways in the city of Boston; and if they are of the opinion that public necessity and convenience require that such repairs should be made they shall appoint a time for a public hearing, and shall cause a notice

thereof, and of their intention in the matter, to be published once in each of two successive weeks in two daily newspapers published in said city, the last publication to be at least seven days previous to the time fixed for the hearing. Said hearing may be adjourned from time to time, if the commissioners consider it necessary; and after said hearing they shall determine what action relative to said way the public necessity and convenience require; and such determination, being recorded in the records of said commissioners, the specific repairs shall be ordered thereon in accordance with such determination.

1888, 397.
R. L. 48, § 88.

SECT. 20. Said commissioners shall estimate the amount of damages sustained by any persons in their property by such ordering of specific repairs on a highway, and, in their determination, shall state the share of each separately.

Estimate of
damages.
G. S. 49, § 78.
P. S. 49, § 88.
1888, 397.
R. L. 48, § 89.

SECT. 21. The damages sustained in any case described in the preceding section shall be paid by the city of Boston, and said city or any party interested may, within the time specified for a like purpose in section twenty-eight of chapter forty-eight of the Revised Laws, file a petition for a jury in the superior court for the county of Suffolk, and thereupon, after such notice as the court shall order, a trial shall be had in said court in the same manner as other civil cases are there tried by jury; and on request of either party the jury shall take a view.

Application
for a jury.
View.
P. S. 49, § 88.
1888, 397.
1892, 415, § 3.
R. L. 48, § 90.

PRIVATE WAYS AND THEIR ACCEPTANCE.

SECT. 22. The board of street commissioners of the city of Boston may accept and lay out as a public highway any unaccepted street which is forty feet or more in width and of a grade satisfactory to said commissioners, and one end of which is connected with an accepted street, *provided* that the assessed value of the real estate on such street shall be not less than fifty dollars per lineal foot for lots, not more than one hundred and fifty feet deep, and that such street, in the opinion of said board, is in safe condition for travel, and *provided* that the owners of not less than two-thirds of the assessed value of the real estate on said street shall petition for such acceptance and laying out, and shall put said street in a condition satisfactory to said board.

Laying out of
unaccepted
ways.
1906, 358, § 1.

SECT. 23. If, in the opinion of said board, at any time it becomes necessary to pave or reconstruct such a street so accepted, nothing in the preceding section shall be construed to prevent said board from passing an order for such paving or reconstruction, and from assessing upon the estates abutting on said street, under the statutes then existing for the assessment of benefits in said city, a betterment tax for the special benefit and advantage which may come to said estates from said order.

Paving or re-
construction of
said street.
1906, 358, § 2.

TAKING OF LAND FOR SANITARY PURPOSES.

SECT. 24. The board of street commissioners of the city of Boston, with the approval of the mayor, is hereby authorized to

Board may
take land for
sanitary pur-
poses.
1903, 411, § 1.

take, by purchase or otherwise, lands, flats, and lands covered by tide water in the Dorchester district of that city, for the uses of the sanitary division of the street department of the city.

Damages.
1804, 411, § 2.

SECT. 25. The city shall pay all damages caused by such taking, and the same shall be determined and paid in the same manner in which damages caused by the taking of lands for public uses are determined and paid as provided in section eight of chapter thirty of this consolidation.

STREET REGULATIONS.

Names of
streets regu-
lated.
1868, 199.
1880, 67, § 1.
1884, 278, § 1.

SECT. 26. No name shall be newly assigned to any public way in the city of Boston by which any other public way is already called whether under the title of street, avenue, court, place, alley or other descriptive title; but any way not affording continuous passage for teams between two other ways may, in the discretion of the board of street commissioners of said city, be termed a court or place, and receive the name of any way with which it communicates. And any extension or continuation of a public way may be called by the same name.

Board of
street commis-
sioners to fix
names of
streets.
1880, 67, § 2.
1884, 278, § 2.

SECT. 27. The names of all public ways hereafter laid out by the board of street commissioners of the city of Boston shall be fixed by a vote of said board after a hearing upon a public notice stating the name proposed to be given. Such vote shall take effect upon such laying out, shall be published in such manner as said board shall direct, and shall be certified by the clerk of said board to the register of deeds for the county of Suffolk. The names of all public ways not already fixed, and changes in the names of ways, may be made by the same authority, confirmed by the board of aldermen of said city, and not otherwise. Such changes shall take effect on the first day of March of each year, shall be published in such manner as the board of aldermen shall direct, and shall be certified by the city clerk to the register of deeds for the county of Suffolk.

Ordinances as
to shape and
size of
vehicles.
1880, 134.

SECT. 28. The city council of the city of Boston may make such ordinances in relation to the size and shape of all carriages, wagons, carts, trucks, sleighs, sleds and other vehicles, and their loads, passing through the streets and public ways of said city, as it may deem necessary for the public safety and convenience, with penalties for the violation thereof not exceeding twenty dollars for each offence.

Signs and other
encroachments
restricted.
1886, 354.

SECT. 29. No person shall place or maintain any sign or advertising device upon any post in any public way in the city of Boston other than by painting; nor place or maintain upon any building or other structure any sign projecting into any such way more than one foot, nor any other thing projecting into any such way more than four feet, nor any sign or other projection the lowest part of which is less than ten feet above the sidewalk thereof, except that any awning, lamp, illuminated sign, and the fixtures thereof, the lowest part of which is not less than seven feet six inches above the surface of the sidewalk, may, until the

right to maintain the same is revoked, be maintained as it was on the first day of June in the year eighteen hundred and ninety-five; or, if placed after that date, be maintained as specified in any permit issued therefor by the officer appointed to have charge of the repairs of such ways; and any person violating any of the preceding provisions for more than five days after he is notified by said officer that he is so doing shall be punished by a fine of two dollars for each day that such violation continues after said notice.

SECT. 30. The board of street commissioners of the city of Boston may issue, under the conditions hereinafter provided and under rules of its own not inconsistent herewith, licenses for the use of specified parts of public streets in said city for the storage and sale of merchandise.

Use of streets
for sale, etc., of
merchandise
regulated.
1907, 584, § 1.

SECT. 31. A person seeking such a license shall file with said board a written application therefor, stating his name, age, occupation, residence and place of business, if any, and whether or not he is a citizen of the United States or has declared his intention to become such. He shall describe accurately in writing, by plan or otherwise, the location, the shape and the dimensions of the space which he desires to occupy, the movable structures which he proposes to use, and the kinds of merchandise which he wishes to store and to sell. He shall submit as part of his application the written consent to the issuance of the said license on the part of the owner or owners of the premises in front of which he desires to carry on business and of the tenants of the ground floor of such premises, or in lieu thereof the written consent of the duly authorized agent or agents of such owners and tenants. When the privilege for which a license is asked is to be exercised in front of premises owned by the city of Boston, the owner's consent herein provided for may be given by the department having charge of said premises. An application from a firm or a corporation shall be made by such partners or officers and under such further conditions as the board shall determine, and every partner or officer so designated shall give concerning himself the information as to age, occupation, citizenship, residence and place of business which is required of an individual applicant.

Procedure
upon applica-
tions for
licenses.
1907, 584, § 2.

SECT. 32. The application shall be sent by the board of street commissioners to the police commissioner of the city of Boston, with a request for a report thereon. It shall be the duty of said police commissioner forthwith to examine in person or by means of his subordinates the location for which the license is asked, with particular reference to the effect of its use as desired upon the free passage of vehicles and of foot-passengers and upon the maintenance of public order. In his report to the board of street commissioners, which shall be made as soon as practicable, he may certify his approval or his disapproval, or his approval conditional upon amendments to be

Reference of
application
to police
commissioner.
1907, 584, § 3.

made in the application as affecting the precise location, its area or the kinds of merchandise to be stored and sold thereon.

Issuance of
license.
1907, 584, § 4.

SECT. 33. Should the board of street commissioners and the police commissioner agree as to the propriety of issuing a license, the authority for further action shall be vested in said board; but no license shall become effective until twenty-four hours after a copy thereof has been delivered to the police commissioner.

Terms of
licenses and
renewals
thereof.
1907, 584, § 5.

SECT. 34. A license issued by the board of street commissioners may be for one or more week days in each week, for such hours daily as it shall in each case determine, and for any period not exceeding twelve months. It may be renewed on an application conforming to the conditions and in accordance with the procedure prescribed in sections thirty-one, thirty-two and thirty-three of this chapter. It may be suspended or revoked for any reason which said board shall consider sufficient.

Fees for
licenses.
1907, 584, § 6.

SECT. 35. For each license issued, and for each renewal thereof, the board of street commissioners shall charge and collect in advance a fee of not less than five dollars nor more than one hundred dollars, according to its estimate of the value of the privilege granted, the receipt of which fee shall be certified on the face of the license. It may make and collect an additional charge as rent whenever the licensee is not the principal tenant of the ground floor of the premises in front of which the location is granted; or whenever such tenant is the licensee but carries on in the location for which the license is issued a business which in the manner of conduct or in the character of the merchandise which is sold differs materially from the business in which he is mainly engaged at that place.

Record of
licenses to be
kept.
1907, 584, § 7.

SECT. 36. The board of street commissioners shall cause to be kept at its office full and accurate records of its doings under the six preceding sections, open to the public under reasonable restrictions, and at all times to the mayor of the city or to such persons as he may designate. Separate accounts shall be kept of moneys received from licenses and from rentals derived from the use of parts of the public streets. Employees of the board entrusted with the receipt or the custody of such moneys shall be required to give bonds for the faithful performance of their duties to such amount in each case and of such character as the board shall determine. Moneys received under the provisions of section thirty-five shall be paid over to the city collector weekly, or more frequently, with a statement in detail of the sources from which they were derived, and the collector shall give his receipt therefor. The board shall include in its annual report a reasonable summary of its doings under the authority of said sections.

Designation of
districts for
hawkers and
pedlars.
1907, 584, § 9.

SECT. 37. The police commissioner for the city of Boston may designate from time to time certain streets, or parts of streets, or sections of the city wherein, and not elsewhere in the city, it shall be lawful on the days and within the hours specified by him, and under such general rules as he shall make, for

any hawker or pedler, without the license provided for in this act, to stop or stand for the purpose of selling merchandise; *provided* that such hawkers or pedlers carry on their business in conformity with the laws of the commonwealth, the ordinances of the city, and the regulations of the board of aldermen and of the board of health of the city of Boston, now or hereafter enacted and not inconsistent herewith.

SECT. 38. A person who occupies a part of a public street in the city of Boston for the purchase, sale or storage of merchandise from a stand, from a vehicle or on foot, except in accordance with the provisions of the eight preceding sections shall be subject to a fine not exceeding twenty dollars for the first offence and not exceeding one hundred dollars for each subsequent offence, and should such person be unknown to the police officer witnessing such occupation he may be arrested by such officer without a warrant.

Penalties.
1907, 584, § 10.

SECT. 39. The city of Boston shall not be liable for any defect or want of repair in any public alley, nor be required to keep the same free from snow, but shall be required to keep the same free from any substance which is liable to cause sickness or a nuisance.

Exemption of
city from lia-
bility for de-
fects in public
alleys.
1898, 238, § 2.

WATERING STREETS.

SECT. 40. The board of aldermen of the city of Boston may divide the territory of said city into two or more street watering districts, and the same shall continue until changed or abolished by said board; and may provide that the owners of estates abutting upon public ways or parts thereof in any or all of said districts shall pay an assessment of a certain specified sum per linear foot of their estates so abutting, to be used for watering each way or part thereof to the same extent in the same district, and may provide that any of such districts shall be watered at the expense of the city.

Division of
city into water-
ing districts.
1899, 366, § 1.
190 Mass. 293.

SECT. 41. The board of assessors of said city shall determine the amount of each assessment required to be paid for each estate in a district in accordance with the assessment provided for as aforesaid for that district.

Determination
of amount of
assessments.
1899, 366, § 2.

SECT. 42. Any person aggrieved by any charge for watering streets by the city, may, on application to the board of street commissioners within one month after notice of such charge has been given to him, have such charge considered by said board, and the board, if such action is required to make the charge reasonable, shall abate a part or the whole thereof, and if the charge has been paid, the treasurer of the city shall, on the certificate of the board stating the amount abated, repay such amount.

Abatement of
unreasonable
assessments.
1899, 366, § 3.

SECT. 43. The provisions of section twenty-seven of chapter twenty-six of the Revised Laws relating to the watering of streets in cities shall, so far as they are applicable and not inconsistent with the provisions of the three preceding sections, apply to the collection of assessments for watering streets under the provisions of said sections.

Collection of
watering rates.
1899, 366, § 4.

CHAPTER 52.

WIRES AND ELECTRICAL APPARATUS.

SECTION

1. Wires and poles in certain streets forbidden.
2. Placing of wires underground.
3. Position of street railway wires in subway, etc.
4. Burying of wires before paving or repaving streets.
5. Map of underground conduits.
6. Deviation from underground system, when.
7. Designation of distance between overhead wires.

SECTION

8. Commissioner may abate or remove any danger.
9. Application of provisions of this chapter.
10. Permits for opening and occupying streets.
11. Board of appeal.
12. Enforcement of orders.
13. Notice to commissioner before installation of wires.
14. Rules and regulations.
15. Current may be shut off, when.

Wires and poles in certain streets forbidden.
1894, 454, §§ 2, 3.

SECTION 1. No person, firm or corporation shall place any poles or other structures for the support of wires, cables or conductors, except those herein specially excepted, in any streets or portions of streets in that part of said city which is bounded southerly by Dover street, westerly by Berkeley street and Charles river, northerly by Charles river, easterly by Boston harbor and Fort Point channel, nor in such streets, avenues or highways in said city as have been or may be designated by the commissioner of wires under the authority of chapter two hundred and forty-nine of the acts of the year eighteen hundred and ninety-eight, except temporarily in the case of an emergency with the consent of the commissioner of wires.

Placing of wires underground.
1898, 249, § 1.

SECT. 2. In January, in the year nineteen hundred and nine, the commissioner of wires shall, after advertisement thereof twice in each of two successive weeks in at least two daily newspapers in the city of Boston, specify certain portions of the streets, avenues or highways of said city, not exceeding two miles in length, outside of the district described in the preceding section, within which, during said calendar year, all wires, cables and conductors, except such feed and return wires of street railways as are placed or carried in subways or tunnels or upon elevated structures, shall be removed or placed underground. He shall also cause the owners or users of said wires, cables and conductors to remove or place them underground, and to remove any poles or structures which are used to support them, except when, in his judgment, it is impracticable or inexpedient to remove any such wires, cables, conductors, poles or structures. He may, upon application of any person, firm or corporation duly authorized by law on the twenty-ninth day of March in the year eighteen hundred and ninety-eight to lay or erect and maintain, and then maintaining, any wires, cables, conductors, poles or structures from any portions of the streets of said city outside of the district described in the preceding section, grant permits for the removal thereof and the placing of them and any other necessary wires, cables and conductors or extensions thereof underground. Such portions shall

be reckoned as a part of the twenty miles of streets from which the wires, cables, conductors, poles and structures are to be taken down and removed prior to the first day of January in the year nineteen hundred and ten pursuant to law. The commissioner may grant permits to such owners or users as are duly authorized by law to lay or erect and maintain wires as aforesaid to lay the underground conduits which are necessary to accommodate the wires so removed, as well as any other necessary wires, cables or conductors or extensions thereof under any streets, avenues or highways; and, subject to the provisions of chapter ninety-six of the Revised Laws, and acts in amendment thereof and in addition thereto, under any water-courses or tide waters within said city.

SECT. 3. In the event of the construction of a subway, tunnel or elevated railroad in that section of the city described in section one, the feed and return wires of street railroads may be placed in said subway or tunnel or upon said elevated railroad with the consent of said commissioner.

Position of
street railway
wires in
subways, etc.
1894, 454, § 2.

SECT. 4. Whenever it shall be determined to pave or repave any street, avenue or highway, or portion thereof, in that section of the city described in section one, public notice thereof shall be given by said commissioner of wires in at least two daily newspapers in the city of Boston by advertisement therein twice in each of two successive weeks before the beginning of said work, and any person, firm or corporation duly authorized by law at the time to lay or erect and maintain wires in said section of said city shall, if so ordered by said commissioner, place its pipes, conduits, wires, cables and conductors underground through said street or portion of said street within such time as shall be specified in said notice; and, thereafter, no person, firm or corporation shall place any wires, poles or other structures in or above, or, without the express permission of the mayor and aldermen of said city, lay any pipes, conduits, wires, cables or conductors through said street or portion of said street, unless specially excepted by the provisions of this chapter; but this provision shall not be construed to prevent any such person, firm or corporation from thereafter, upon permit from the superintendent of streets in said city, making necessary repairs or service connections with conduits, pipes, wires, cables or conductors laid in such street or portion of such street, or drawing wires or cables into the conduits constructed therein.

Burying of
wires before
paving or
repaving
streets.
1894, 454, §§ 3, 4.

SECT. 5. When any person, firm or corporation operating or intending to operate wires, cables or conductors in said section of said city shall desire or be required to place the same underground in any of the streets, avenues or highways of said section, and, for that purpose to remove the same from above the surface thereof, and shall have been duly authorized so to do, it shall be obligatory upon such person, firm or corporation to file with said commissioner a map or maps made to scale showing the streets, avenues or other highways which are desired or

Map of
underground
conduits.
1894, 454, § 5.

required to be used for said purposes, and giving the location, dimensions and course of the underground conduit or conductor desired or required to be constructed.

Deviation from underground system, when. 1894, 454, § 6.

SECT. 6. Whenever in any of the streets, avenues or other highways in said section of said city and those mentioned in section three of this chapter, the public interests do not, in the opinion of said commissioner, require the electrical conductors to be placed underground, and whenever it is deemed by said commissioner upon examination to be, for any cause, impracticable or inexpedient for the electrical wires, cables or conductors of any person, firm or corporation to be placed or operated underground, then, and in either of those cases, it shall be the duty of said commissioner to examine and grant the application of any such person, firm or corporation to examine for permission to deviate from said underground system, subject, however, to the regulation and control of the mayor and aldermen of the location, erection and maintenance of the poles or structures necessary to be used for sustaining such wires, cables or conductors; and a copy of every such permit shall be kept on file in the office of said commissioner and shall be recorded in a book to be kept for that purpose which shall be at all times accessible to the public.

Designation of distance between overhead wires. 1894, 454, § 7.

SECT. 7. Said commissioner may designate in said city the distances between the overhead electrical wires, cables or conductors of any person, firm or corporation and those of any other person, firm or corporation, and may regulate the direction in which such wires, cables or conductors shall be run for any purpose from a fixture upon or from the top of any building to the point of entering any building for service; and every person, firm or corporation owning, operating or maintaining any wire, cable or conductor over any building in said city shall, notwithstanding any agreement to the contrary, keep such wire, cable or conductor at least eight feet above the highest part of the roof of such building as the roof may be at the time of placing the wire, cable or conductor, or as it may be thereafter at any time raised by the owner thereof, and shall keep and maintain any structure placed upon any building for the support of any wire, cable or conductor to the satisfaction of said commissioner.

Commissioner may abate or remove any danger. 1894, 454, § 8.

SECT. 8. The said commissioner, in case of the neglect or refusal of any person, firm or corporation to comply with any requirements made by said commissioner under authority of this chapter, may proceed in a summary manner to abate or remove any danger which he deems likely to result from the requirement not being complied with.

Application of provisions of this chapter. 1894, 454, § 9.

SECT. 9. The provisions of this chapter shall not apply to long distance telephone wires or to railway trolley, guard or span wires, or to posts for the support of lamps exclusively, or to poles used exclusively for local distribution from underground wires, cables or conductors, or for the support of railway trolley, guard and span wires, nor revoke any rights granted

to any person, firm or corporation prior to the sixth day of June in the year eighteen hundred and ninety-four to place or maintain any conduits, pipes, wires, cables or conductors underground, but any such conduits, pipes, wires, cables or conductors laid subsequently to said date in pursuance of any such grant shall be laid subject to the provisions of this chapter not inconsistent with the terms of said grant. For the purpose of this chapter, no wire shall be deemed a long distance telephone wire which is not connected with some central telephone office in said city and does not extend twenty-five miles at least in a direct line from said central office.

SECT. 10. It shall be the duty of the superintendent of streets of said city, and he shall have the power to issue, subject to the usual conditions, all permits for opening and occupying the streets of said city necessary to carry out the intent of this chapter, upon application of said commissioner.

Permits for opening and occupying streets.
1894, 454, § 11.
1898, 249, § 1.

SECT. 11. The city engineer, the superintendent of streets and the fire commissioner of said city shall constitute a board of appeal, of which board the city engineer shall be chairman, to which application may be made by petition in writing by any person, firm or corporation aggrieved by the acts or decision of said commissioner done or made in pursuance of this chapter. Said petition shall set forth the specific grievance relied upon and shall be filed with the chairman of said board of appeal within ten days from the date of said act or decision causing said grievance, and said board after notice given as prescribed in section three of this chapter shall give a hearing thereon, and may either approve or revoke said act or decision of said commissioner.

Board of appeal.
1894, 454, § 12.

SECT. 12. The supreme judicial court and any justice thereof, and the superior court, and any justice thereof, shall, on petition of said commissioner have jurisdiction in equity to enforce the provisions of this chapter or any order of the commissioner issued under said provisions and to compel compliance therewith.

Enforcement of orders.
1894, 454, § 13.

SECT. 13. Every corporation or person proposing to place wires designed to carry a current of electricity within a building shall give notice thereof to the commissioner of wires of said city before commencing the work; and shall not turn the current on to wires that are to be used for electric lighting, heating or power until permission to do so has been given by said commissioner.

Notice to commissioner before installation of wires.
1898, 268, § 1.

SECT. 14. The commissioner of wires shall be deemed the sole judge of what constitutes proper insulation and the safe installation of electric conductors and appliances within buildings, and is hereby authorized to make such conductors and appliances as safe as possible.

Rules and regulations.
1898, 268, § 2.

SECT. 15. Whenever in the opinion of the commissioner of wires any electrical conductors or appliances used for the distribution of an electrical current within a building are in an unsafe or dangerous condition, he is hereby authorized to cause the current to be shut off if the existing defects are not remedied within a reasonable time.

Current may be shut off when.
1898, 268, § 3.

PART III.

THE POLICE DEPARTMENT.

- CHAPTER 53. The Police Commissioner.
CHAPTER 54. The Administration of Police.
CHAPTER 55. The Licensing Board.

CHAPTER 53.

THE POLICE COMMISSIONER.

SECTION

1. Police commissioner, appointment, term, secretary.
2. Salary of commissioner and secretary. Accommodations. Clerks.
3. Legal assistants.
4. Powers and duties of commissioner.
5. Police commissioner to have charge of market, etc., police.

SECTION

6. Acting police commissioner.
7. Tenure and powers of police officers.
8. Number of patrolmen. Salary of superintendents.
9. Special patrolmen.
10. Mayor to assume command of police, when.
11. Annual report. Records.

SECTION 1. The governor, with the advice and consent of the council, shall appoint a police commissioner for the city of Boston, who shall be (a citizen of Boston and who shall have resided therein for at least two years immediately preceding the date of his appointment.) Such police commissioner shall not engage in any other business, and shall be sworn to the faithful performance of the duties of his office before entering upon the same.

Said police commissioner shall be appointed for a term of five years, and shall hold his office until his successor is appointed and qualified, and any vacancy occurring shall be filled by the governor, with the advice and consent of the council, by an appointment for a term of five years.

Said police commissioner may be removed by the governor, with the advice and consent of the council, for such cause as he shall deem sufficient. Such cause shall be stated in his order of removal.

Said police commissioner shall appoint a secretary, who shall be exempt from the civil service law, who shall be sworn to the faithful performance of his duties, and who shall keep such records, issue such notices and attest such papers and orders as said police commissioner shall direct. His term of office shall be five years, but he may be removed by said police commissioner for such cause as he shall deem sufficient. Such cause shall be stated in his order of removal.

Police commissioner, appointment, term, Secretary.
1878, 244, § 1.
1886, 323, § 1.
1906, 291, § 7.
128 Mass. 269.
148 Mass. 285, 875.
156 Mass. 227.
173 Mass. 312.
182 Mass. 598, 601.

Salary of commissioner and secretary.
Accommodations, clerks.
1885, 823, § 4.
1897, 520.
1904, 558.
1906, 291, § 8.
191 Mass. 382.
198 Mass. 547.

SECT. 2. The annual salary of the police commissioner shall be six thousand dollars, and of the secretary three thousand dollars, which shall be paid in monthly instalments by the city of Boston. Subject to the approval of the governor and council, the police commissioner shall be provided with such rooms, which shall be suitably furnished, as shall be convenient and suitable for the performance of his duties, the expense of which shall be paid by the city of Boston.

The city of Boston shall provide all such accommodations for the police of said city as said police commissioner may require. (All buildings and property used by said police shall be under control of said police commissioner.

Said police commissioner may employ such clerks, stenographers and other employees as he may deem necessary for the proper performance of the duties of his office.

All expenses for the maintenance of buildings, the pay of the police, clerks, stenographers and other employees, and all incidental expenses incurred in the performance of the duties of said commissioner, or in the administration of said police, shall be paid by the city of Boston upon the requisition of said police commissioner.

Legal assistance.
1889, 419.
1894, 286.
1906, 291, § 9.

SECT. 3. Said police commissioner may employ such legal assistance as he may deem necessary in the performance of his duties, and may incur expense therefor to an amount not exceeding thirty-five hundred dollars in any municipal year, which expense shall be paid by the city of Boston upon the requisition of said police commissioner.

Powers and duties of commissioner.
1821, 110, § 18.
1864, 448, § 33.
1878, 244, §§ 2, 3.
1885, 323, § 2.
1906, 291, § 10.
148 Mass. 375, 382.
155 Mass. 227, 230.
182 Mass. 598, 601.

SECT. 4. The police commissioner shall have authority to appoint, establish and organize the police of said city, appoint a superintendent of police, a deputy superintendent of police, captains, inspectors, sergeants, patrolmen, clerks and other officers, and to make all needful rules and regulations for the efficiency of the police. He shall from time to time appoint a trial board, to be composed of three captains of police, to hear the evidence in such complaints against members of the force as the commissioner may deem advisable to refer to said board. Said trial board shall report its findings to said commissioner, who may review the same and take such action thereon as he may deem advisable. Except as otherwise provided by law, all the powers and duties conferred or imposed by law upon the board of police of the city of Boston on the first day of June in the year nineteen hundred and six are conferred and imposed upon said police commissioner. All licenses issued by said police commissioner shall be signed by him and recorded in his office.

Police commissioner to have charge of park and market and water police.
1895, 449, § 26.

SECT. 5. The police commissioner for the city of Boston shall have charge and control of the members of the park police of said city, of the officers appointed as department police for the Faneuil hall markets, and of the police employed by the Boston water board within the limits of the city of Boston, and they shall be considered as regular police officers of said city.

Said commissioner shall appoint and have charge of all police for service in the parks, markets and grounds in said city used for purposes of its water supply, and of all other department police of said city, the same as all other regular police officers of said city. The age of any applicant for appointment on the park police or grounds used in said city for purposes of its water supply shall constitute no disqualification if such applicant is an honorably discharged veteran who served in the army or navy of the United States in the war of the rebellion, and is otherwise qualified to perform the duties of said position.

SECT. 6. The said police commissioner may at any time, subject to removal by him at his pleasure, designate some member of the police force to be acting police commissioner.

Acting police
commissioner.
1906, 291, § 11.

In case of the absence or disability of the police commissioner without having designated an acting commissioner, the superintendent of police, or, in case of his absence or disability, the next ranking officer, or, where there are two such officers of equal rank, the senior officer in date of appointment, shall be acting commissioner while such absence or disability continues. An acting police commissioner shall receive no extra compensation for services as such.

SECT. 7. The members of the Boston police force, including reserve police officers, in office when the said commissioner was first appointed, shall continue to hold their several offices until removed or placed on the retired list by the said police commissioner in accordance with law; and the rules and regulations of the former board of police for the said city shall continue in force until otherwise ordered by said police commissioner.

Tenure and
powers of po-
lice officers.
1878, 244, § 4.
1885, 323, § 3.
1906, 291, § 12.
142 Mass. 90.
173 Mass. 312.

All police officers now in office or appointed by said police commissioner shall have and exercise within the limits of said city all the powers conferred by law upon constables, except in relation to the service of civil process, and all the powers conferred upon the police as watchmen.

SECT. 8. Except as authorized by the mayor of said city, and except as authorized by section thirty-two of chapter fifty-four of this consolidation and section nine of this chapter, said commissioner shall not appoint any greater number of patrolmen than the board of police of the said city was, on the first day of June in the year nineteen hundred and six, authorized to appoint, nor shall the pay of the members of the police force other than said police commissioner and superintendent of police be increased or diminished, except by the concurrent action of said mayor and said police commissioner. The police commissioner may, without such concurrent action, fix the salary of the superintendent of police, which shall not exceed five thousand dollars per annum.

Number of
patrolmen.
Salary of su-
perintendent.
1885, 323, § 5.
1906, 291, § 13.

SECT. 9. The police commissioner may, upon an emergency or apprehension of riot, tumult, mob, insurrection, pestilence or invasion, appoint as many special patrolmen, without pay, from among the citizens, as he may deem desirable. During the service of any special patrolman authorized as aforesaid, he shall

Special
patrolmen.
1878, 244, § 7.
1906, 291, § 10.

possess all the powers and privileges, and perform all the duties, that may be by orders, rules and regulations, from time to time prescribed.

Mayor to assume command of police when.
1878, 244, § 8.
1886, 323, § 6.

SECT. 10. In case of tumult, riot or violent disturbance of public order, the mayor of said city shall have, as the exigency in his judgment may require, the right to assume control for the time being of the police of said city; but before assuming such control he shall issue his proclamation to that effect, and it shall be the duty of the police commissioner to execute all orders promulgated by him for the suppression of such tumult and the restoration of such order.

Annual report, records.
1883, 323, § 7.
1906, 291, § 14.

SECT. 11. Said police commissioner shall annually, in the month of December, make a report to the governor. The records of said police commissioner shall at all times be open to the inspection of the governor, the mayor of said city, and of such persons as may be designated by either of them.

CHAPTER 54.

THE ADMINISTRATION OF POLICE.

RESERVE POLICE.

SECTION

1. Appointment of reserve police.
2. Appointments to regular force from reserve force.
3. Compensation of reserve force.

RAILROAD AND SPECIAL POLICE.

4. Appointment of railroad and special police.
5. Special police officers, appointment of.
6. Term of office, powers, etc.
7. Tenure of previously appointed officers not affected.
8. Special police for election days.

POLICE SIGNAL SYSTEM.

9. Maintenance of police signal system.
10. Attachment of wires to posts and structures.

POLICE PENSIONS.

11. Retirement of disabled members of police.
12. Annuity to widow, when.
13. Retirement of police officer at his own request.
14. Amount of pension.
15. Retirement of police officers who are civil war veterans.
16. Amount of annual pension.
17. Retirement of police officers for other reasons.
18. Amount of annual pension.
19. Calls for temporary service.
20. Effect of nine preceding sections.
21. Pensions to members of police signal service.
22. Acceptance of preceding section.

POLICE ACCOMMODATIONS.

SECTION

23. Building for police purposes.
24. Taking of land.
25. Damages.

HOUSE OF DETENTION FOR WOMEN AND POLICE MATRONS.

26. House of detention for women.
27. Police matrons.
28. Tenure of office, salary, duties, etc.
29. Duties of matron.
30. Definition of "police station" and "woman."

PERIODICAL RELIEF FROM DUTY.

31. Periodical relief from police duty.
32. Appointment of additional police officers.

HARBOR MASTERS.

33. Harbor masters, etc., appointment and duties of.
34. Pay and rank of harbor masters.
35. Duties of harbor master in particular.

GENERAL PROVISIONS.

36. Appointment of keeper of lock-up.
37. Report of arrests.
38. Investigation of certain corporations.
39. Report to secretary as to conduct of club.
40. Same subject.
41. Report as to licensees violating conditions of license.
42. Information as to applicants to be given to licensing board.
43. Suspension, etc., of license, when.
44. Police to have rights of way in streets.

RESERVE POLICE.

SECTION 1. The police commissioner for the city of Boston may, from time to time, as authorized by said city and under such rules as the civil service commissioners of the commonwealth prescribe, appoint suitable persons to constitute a reserve police force for said city, who shall be subject to such rules and regulations as the police commissioner may from time to time prescribe, and who may be removed by him for any reason satisfactory to him. He may assign the members of said reserve police force to duty in said city whenever, and for such time, as he shall deem necessary; and, when on duty, they shall have and exercise all the powers and duties held and exercised by the police of said city.

Appointment
of reserve
police force.
1887, 177, § 1.
1906, 291, § 10.

SECT. 2. All appointments upon the regular police force of said city shall be made from such members of the reserve police force as have served upon said reserve force for not less than six months, under such rules as the civil service commissioners of the commonwealth may prescribe.

Appointments
to regular
force from
reserve force.
1887, 177, § 2.

SECT. 3. The members of the reserve police force shall be paid by the city of Boston, when on duty, such compensation, not exceeding two dollars and fifty cents per day, as the police commissioner may from time to time prescribe.

Compensation
of reserve
force.
1887, 177, § 3.

RAILROAD AND SPECIAL POLICE.

SECT. 4. The police commissioner for the city of Boston may, subject to the provisions of sections thirteen to twenty of chapter one hundred and eight of the Revised Laws, appoint railroad police; and may, upon the written application of any officer or board in charge of a department of the city of Boston, approved by the mayor of said city, appoint special police officers for such department.

Appointment
of railroad
and special
police.
1878, 244, § 6.
1898, 282, § 1.
1906, 291, § 10.
178 Mass. 151.

SECT. 5. The police commissioner may, if he deems it expedient, on the application of any corporation or person that said commissioner may deem responsible, appoint special police officers to serve without pay from said city, and the corporation or person applying for an appointment under this section shall be liable for the official misconduct of the officer appointed on such application as for the torts of any servant or agent in the employ of such corporation or person.

Special police
officers, ap-
pointment of.
1878, 244, § 6.
1898, 282, § 2.
1906, 291, § 10.
178 Mass. 151.

SECT. 6. Every special police officer appointed under the provisions of the two preceding sections shall serve from the time of his appointment to the first day of April of the year next ensuing and shall have the power of police officers to preserve order and to enforce the laws and ordinances of the city in and about any park, public ground, place of amusement, place of public worship, wharf, manufactory or other locality specified in the application. A record of all such appointments shall be kept in the office of said police commissioner, and any appointment so made may be revoked by said police commissioner at any time.

Term of office,
powers, etc.
1878, 244, § 6.
1898, 282, § 3.

Tenure of
previously
appointed
officers not
affected.
1898, 282, § 4.
178 Mass. 152.

SECT. 7. Any such officer appointed prior to the second day of April in the year eighteen hundred and ninety-eight under the provisions of section six of chapter two hundred and forty-four of the acts of the year eighteen hundred and seventy-eight shall continue to perform the duties of such officer according to the tenure of his appointment.

Special police
for election
days.
1889, 423.
1906, 291, § 10.

SECT. 8. The police commissioner for the city of Boston may appoint for duty on days on which elections are to be held in said city such number of special police officers as said commissioner may find to be necessary. The officers so appointed shall receive the same compensation which reserve police officers receive, and such compensation shall be paid by the city treasurer upon the requisition of said commissioner.

POLICE SIGNAL SYSTEM.

Maintenance
of police signal
system.
1887, 325, §§ 1, 2.
1888, 402.
1906, 291, § 10.

SECT. 9. The police commissioner for the city of Boston is hereby authorized to maintain in the several police divisions of said city an electric signal and telephonic system, and to provide such patrol wagons, horses, equipments and accommodations for the same as in the opinion of said commissioner may be necessary for the purpose. The annual expense of maintaining said signal system shall be paid by the city treasurer upon the requisition of said commissioner.

Attachment of
wires to posts
and structures.
1887, 325, § 3.
1906, 291, § 10.

SECT. 10. The police commissioner is hereby authorized to attach the wires and fixtures used in the police service to any posts and structures now erected or that may be hereafter erected in the city of Boston for the support of wires used in the transmission of electricity: *provided, however*, that such wires and fixtures shall not be attached to poles and structures belonging to the fire alarm department except by consent of the fire commissioner, and such wires and fixtures shall have the same privileges in respect to underground wires that may be enjoyed by other departments of the public service.

POLICE PENSIONS.

Retirement of
disabled
members of
police.
1878, 244, § 5.
1887, 178, § 1.
1892, 353, § 2.
1893, 51.
1906, 291, § 10.

SECT. 11. The police commissioner for the city of Boston, with the approval of the mayor, may retire from office any member of the police department who has become disabled while in the actual performance of duty, or any member who has performed faithful service in the department for a period of not less than fifteen consecutive years, and place the member so retired upon a pension roll. No such member shall be placed on the pension roll unless it shall be certified to the police commissioner in writing by the city physician that such member is permanently incapacitated, either mentally or physically, from performing his duty as a member of the department. In case of total permanent disability caused in or induced by the actual performance of his duty, the amount of annual pension shall be one-half of the annual compensation of the office from which he is so retired, or such less sum as the said board may determine.

The pension of a member who has served fifteen or more consecutive years shall be an amount not exceeding one-third the annual salary or compensation of the office from which he is retired, as the commissioner may determine. The commissioner may, with the approval of the mayor, allow and pay to former members of the police department of said city, pensioned under the provisions of chapter two hundred and forty-four of the acts of the year eighteen hundred and seventy-eight or of chapter one hundred and seventy-eight of the acts of the year eighteen hundred and eighty-seven who, on the eighth day of March in the year eighteen hundred and ninety-three, were, and now are, on the pension rolls of said city, as an annual pension one-half of the amount of compensation received by them, respectively, at the time of their retirement.

SECT. 12. If any member of said police department shall die from injuries received while in the discharge of his duty and shall leave a widow, or, if no widow, any child or children under the age of sixteen years, a sum not exceeding three hundred dollars may be paid by said city as an annuity to such widow so long as she remains unmarried, or for the benefit of any such child or children so long as he or they continue under the age of sixteen years, and the police commissioner may from time to time determine the amount of such annuity within said limits.

Annuity to widow, when.
1878, 244, § 6.
1887, 178, § 2.
1906, 291, § 10.

SECT. 13. The police commissioner for the city of Boston may, at the request of any member of the police department who has performed faithful service in said department for a period not less than twenty years, retire him from active service and place him upon a pension roll if, in the judgment of the police commissioner, said officer is incapacitated for useful service on said force; and said commissioner shall retire from such service and place upon a pension roll any member of said force who has arrived at the age of sixty-five years, or any member who shall be certified to said commissioner, in writing, by the physician to the board of health of said city as being permanently incapacitated, either mentally or physically, by injuries sustained in the actual performance of duty from further performing duty as such member; *provided, however*, that no officer shall be retired under the provisions of this section unless such action is approved in writing by the mayor of the city of Boston; and *provided* that soldiers and sailors who served during the war of the rebellion, and who have received an honorable discharge, shall not be retired at the age of sixty-five years except at their own request.

Retirement of police officer at his own request.
1892, 353, § 1.
1906, 291, § 10.

SECT. 14. The amount of the annual pension allowed to any person retired under the provisions of the preceding section shall be one-half of the amount of compensation received by him at the time of such retirement, the same to be paid by the city of Boston.

Amount of pension.
1892, 353, § 2.
1893, 51.
1906, 291, § 10.

SECT. 15. The police commissioner for the city of Boston shall, upon the request of any member of the police department

Retirement of police officers who are civil war veterans.

1898, 172, § 1.
1906, 291, § 10.

who has performed faithful service in said department, retire him from active service and place him upon a pension roll if the member making such request served either as a soldier or as a sailor during the war of the rebellion, and received an honorable discharge, *provided* said member has arrived at the age of sixty years or has had twenty years active service in said department.

Amount of
annual pen-
sion.
1898, 172, § 2.

SECT. 16. The amount of the annual pension allowed to any person retired under the provisions of the preceding section shall be one half of the amount of compensation received by him at the time of such retirement, the same to be paid by the city of Boston.

Retirement of
police officers
for other
reasons.
1900, 306, § 1.
1903, 312.
1906, 291, § 10.

SECT. 17. The police commissioner for the city of Boston shall, at the request of any member, engineer or fireman of the police department in good standing, retire him from active service and place him upon a pension roll if he has arrived at the age of sixty years and has performed active service in the department for twenty-five consecutive years.

Amount of
annual
pension.
1900, 306, § 2.

SECT. 18. The amount of the annual pension allowed to any person retired under the provisions of the preceding section shall be one half of the yearly compensation received by him at the time of his retirement, the same to be paid by the city of Boston.

Calls for tem-
porary service
1900, 306, § 3.
1906, 291, § 10.

SECT. 19. The police commissioner is hereby authorized, in case of an emergency, to call upon any person so pensioned, under the provisions of section seventeen, for such temporary service in the department as he may be fitted to perform; and, during such service, he shall be entitled to full pay.

Effect of nine
preceding
sections.
1892, 353, § 3.
1898, 172, § 3.
1900, 306, § 4.

SECT. 20. The provisions of the nine preceding sections are in addition to and not in repeal of any act which was in force at the time of their respective enactments relative to pensioning members of the police department.

Pensions to
members of
police signal
service.
1904, 402, § 1.
Acceptance of
preceding
section.
1904, 402, § 3.

SECT. 21. All provisions of law relative to the pensioning of members of the police department of the city of Boston shall apply to members of the police signal system of that city.

SECT. 22. The preceding section shall take effect upon its acceptance by the city council of the city of Boston.

POLICE ACCOMMODATIONS.

Building for
police
purposes.
1901, 528, § 1.
1906, 291, § 10.

SECT. 23. The city of Boston may erect and furnish a building to contain rooms and accommodations for the headquarters and a station house for the police department of the city, and for other suitable purposes connected with the administration of the police force of the city; the selection of the land and the plans and furnishings of the building to be approved by the police commissioner and the mayor of the city.

Taking of
land.
1901, 528, § 2.
1906, 291, § 10.

SECT. 24. The police commissioner for the city, with the approval of the mayor, may take, by purchase or otherwise, land for the purposes set forth in the preceding section; and, in order to take any land otherwise than by purchase, they shall sign and cause to be recorded in the registry of deeds for the

county of Suffolk a statement describing the land sufficiently for identification, and stating that it is taken for police purposes; and upon the recording of any such statement, the land described therein shall be taken in fee for the city. The said police commissioner may take a bond from the owner of any land binding him to sell the land to the city at a price named in the bond.

SECT. 25. The city shall pay to the owner of any property which, or a part of which, is taken as aforesaid, such damages as shall be agreed upon by the owner and by the board of street commissioners of the city, with the approval of the mayor; and, if they cannot agree upon the damages, the owner may, within one year after the taking, file a petition in the clerk's office of the superior court for the county of Suffolk that the damages be determined by a jury of said court; and, thereupon, after such notice as the court shall order, the damages shall be determined by the jury in the manner in which damages for the taking of land for highways under general laws are determined, and costs shall be taxed and execution shall issue as in civil cases.

Damages.
1901, 548, § 2.

HOUSE OF DETENTION FOR WOMEN AND POLICE MATRONS.

SECT. 26. In the city of Boston, the police commissioner shall maintain a house of detention for the reception and confinement of women under arrest; and, for that purpose, said commissioner shall have authority to hire, lease or alter and arrange a building or buildings and to fit up the same in a suitable manner. Reasonable salaries for officers and assistants of such house of detention shall be fixed by concurrent action of the city council and of said police commissioner, and such salaries, together with all expenses incurred for the maintenance of such house of detention and for the transportation of prisoners thereto and therefrom, shall be paid by the city treasurer of said city of Boston upon the requisition of said commissioner. Said police commissioner may prescribe all needful rules and regulations, not inconsistent with this section, for the government of such house of detention. The officers of such house of detention shall consist of a chief matron, an assistant chief matron, and as many assistant matrons and other male or female assistants as said police commissioner may deem necessary for the proper management of the same. The chief matron and assistant chief matron shall be appointed by the police commissioner, but no woman shall be so appointed unless suitable for the position and recommended therefor in writing by at least twenty-five women of good standing, residents of the city of Boston; they shall be appointed to hold office until removal, and they may be removed at any time by said commissioner by written order stating the cause of removal. The assistant matrons and other assistants shall be appointed, and may be suspended, by the chief matron, subject to the approval

House of
detention for
women.
1887, 234, § 3.
1906, 291, § 10.

of said police commissioner. Either the chief matron or the assistant chief matron shall be on duty at all hours of the day and night. A police officer who takes a woman to such house of detention shall render such assistance in placing her under confinement as the chief matron or assistant chief matron may require, and the chief matron or assistant chief matron may at any time send to the nearest police station for such police assistance as they may require.

Police
matrons.
1887, 234, § 1.
1888, 181.
R. L. 108, § 32.
1906, 291, § 10.

SECT. 27. In the city of Boston, the police commissioner may designate one or more police stations for the detention and confinement of all women under arrest and for the detention and lodging of women not under arrest within such city. Such commissioner may at any time designate additional stations, or may declare any stations so designated to be discontinued. The police commissioner for the city of Boston shall appoint, as soon as may be after any station has been so designated, one or two police matrons to be attached thereto.

Tenure of
office, salary,
duties, etc.
1887, 234, § 2.
1888, 181.
R. L. 108, § 33.
1906, 291, § 10.

SECT. 28. A woman shall not be appointed a police matron unless she is suitable for the position and has been recommended therefor in writing by at least ten women of good standing, residents of the city of Boston. A police matron shall be appointed to hold office until removal, and may be removed at any time by the police commissioner by written order stating the cause of removal. Upon her death, resignation or removal, her successor shall be appointed as soon as may be. She shall receive a reasonable compensation which shall be fixed by the concurrent action of the city council and of the ~~board of police~~ and shall be paid by the city treasurer upon the requisition of said commissioner. If only one police matron is attached to a station, she shall reside within a reasonable distance thereof, and shall be ready to respond to a call therefrom at any hour of the day or night. If two police matrons are attached to a station, the hours during which they shall respond to calls therefrom, respectively, shall be so fixed by the police commissioner that one of them shall be ready to respond at all hours of the day and night, and each such matron shall, during the hours so fixed for her, remain within a reasonable distance of such station and be ready to respond to any call therefrom. One of such matrons shall remain constantly at the police station to which she is attached, ready for service, so long as any woman is detained, lodged or held under arrest therein. A police matron shall have the entire care and charge of all women held under arrest, detained or lodged in the station to which she is attached, and she may at any time call upon the officer in command of such station for assistance. (She shall be subject to the authority of the police commissioner and of the rules and regulations, not inconsistent with the provisions of sections twenty-six to thirty, inclusive, of this chapter, which may be prescribed by him; but she shall not be subject to the control or direction of any police officer attached to a station except the officer in command thereof at the time. In

every station to which a police matron is attached, the police commissioner shall, at the expense of the city, provide sufficient and proper accommodation for women held under arrest, detained or lodged therein.

SECT. 29. If a woman is arrested and taken to a police station to which a matron is attached, or, if not under arrest, is detained or lodged therein, the police officer there in command shall cause the matron to be summoned forthwith; and if, in Boston, a woman is arrested and taken to a station to which no matron is attached, or is received therein for the purpose of detention or lodging such officer shall cause her to be removed as soon as possible to the nearest station to which a matron is attached or to the house of detention, and the city treasurer shall pay the reasonable expense of such removal upon the requisition of the police commissioner. Such removal of a woman shall not deprive any court of any jurisdiction which it would otherwise have had.

Duties of
matron.
1887, 234, § 4.
1888, 181.

SECT. 30. The word "police station" or "station" in the three preceding sections shall mean any place in which persons are temporarily confined under arrest; the word "woman" or "women" shall mean any person or persons of the female sex.

Definition of
"police
station" and
"woman."
1887, 234, § 5.

PERIODICAL RELIEF FROM POLICE DUTY.

SECT. 31. The members of the regular and reserve police force of the city of Boston shall be relieved of police duties, without loss of pay, once in each fifteen days, for a period of not less than twenty-four consecutive hours except for the time required to answer at roll call immediately before the beginning or immediately after the end of a tour of duty. The time and the manner of such relief shall be determined in each instance by the police commissioner of the city of Boston, or, under his authority, by the superintendent of police or other superior officer or officers. A member so relieved shall be exempt for the time from actual police service and from presence for duty, but otherwise shall be subject during such relief to all laws, rules, orders and regulations for the government of the force which may be in effect from time to time. Should the exigencies of the service, in the judgment of the commissioner, or of the superintendent or other superior officer authorized thereto by the commissioner, require at any time that a member of the force should be deprived of his period of relief or that it should be curtailed, the time so lost shall be made up to him as soon thereafter as may be practicable.

Periodical
relief from
police duty.
1907, 513, § 1.

SECT. 32. The police commissioner for the city of Boston is hereby authorized and directed to appoint, in the manner now prescribed by law, such additional members of the police force, including the reserve, as he shall deem necessary to carry out the provisions of the preceding section.

Appointment
of additional
police officers.
1907, 513, § 2.

HARBOR MASTERS.

Harbor masters, etc., appointment and duties of.
1847, 234, § 5.
1862, 64, § 1.
1889, 147, § 1.
1906, 291, § 10.

SECT. 33. The harbor master and assistant harbor masters for the port of Boston shall be appointed from the police force by the police commissioner for the city of Boston; and they shall continue respectively to have all the powers and be subject to all the duties, liabilities and obligations which now appertain by law to said offices. The police commissioner may require such further duties of these officers, including the duties of officers and members of the police force of said city not inconsistent with the provisions of law, as he shall deem expedient.

Pay and rank of harbor masters.
1839, 147, § 2.

SECT. 34. The harbor master and assistant harbor masters shall receive the pay which may be established for the grade or rank which they respectively hold in the police force of said city.

Duties of harbor master in particular.
1847, 234, § 6.

SECT. 35. It shall be the duty of said harbor master to enforce the execution of the several provisions of this chapter and of all other laws of the commonwealth relating, in any way to said harbor; and to prosecute all violations of such laws and ordinances, and to take all lawful measures to prevent the doing of any act by which the flow of the tides, or the force, direction or depth of the current into, out of, or through the said harbor may, in any degree, be injuriously affected. And said harbor master shall also have authority so to regulate the anchorage of vessels that, as far as may be practicable, ferry-boats may pass unobstructed, and the channel shall be kept clear from the wharves to Castle island.

GENERAL PROVISIONS.

Appointment of keeper of lock-up.
1873, 175, §§ 1, 3.
1881, 136, § 1.
P. S. 28, § 27.
1885, 323, § 2.
R. L. 26, § 40.
1906, 291, § 10.

SECT. 36. In Boston, the police commissioner shall annually appoint the keeper of the lock-up, as required by selectmen by section forty of chapter twenty-five of the Revised Laws, and, after a neglect for three months to appoint such keeper shall forfeit thirty dollars and ten dollars additional for each subsequent month of such neglect.

Report of arrests.
1882, 226, § 2.
1892, 290, § 3.
R. L. 222, § 7.
1906, 291, § 10.

SECT. 37. The police commissioner for the city of Boston shall make monthly reports to the prison commissioners of the number of persons of each sex who have been arrested in said city. Such report shall be classified according to the offences. If he refuses or neglects to make such report, he shall forfeit fifty dollars.

Investigation of certain corporations.
1890, 439, § 1.
1893, 226, § 1.
R. L. 125, § 4.
1906, 291, § 10.

SECT. 38. Before making and issuing a certificate of incorporation to a corporation for any of the purposes described in section two of chapter one hundred and twenty-five of the Revised Laws, the secretary of the commonwealth may forward a statement to the police commissioner for the city of Boston giving a list of the names of the persons who have applied for incorporation, the purpose of the organization as stated by the applicants, the location proposed to be occupied and all other facts which may be stated in the application for incorporation. The police commissioner, upon the receipt of such statement,

shall immediately make an investigation and ascertain whether any of the proposed incorporators have been engaged in the illegal selling of intoxicating liquor or in keeping places or tenements used for the purpose of illegal gaming, or whether they have been engaged in any other business or vocation prohibited by law, and shall forthwith report to the secretary of the commonwealth all the facts ascertained. If, in his opinion, it appears from said report or otherwise that the probable purpose of the formation of the proposed organization is to cover an illegal business, the secretary shall refuse to issue a certificate of incorporation.

SECT. 39. If any person is convicted of exposing and keeping for sale or selling intoxicating liquor on the premises occupied by any club or organization described in section two of chapter one hundred and twenty-five of the Revised Laws, or of illegal gaming upon said premises, or of being present where implements of gaming are found upon said premises the police commissioner shall immediately notify the secretary of the commonwealth, and he shall, upon receipt of such notice, declare the charter of said club void, and shall publish a notice, in at least one newspaper published in the county of Suffolk that such incorporation is void and of no further effect.

Report to secretary as to conduct of club.
1890, 439, § 2.
1893, 226, § 2.
1894, 542.
R. L. 100, § 89.
1906, 291, § 10.

SECT. 40. If any liquor, or any casks or other vessels or implements of sale and furniture used or kept and provided to be used in the illegal keeping or sale of liquor, or any implements of gaming are seized on the premises occupied by any club or organization described in said section two, the police commissioner shall immediately notify the secretary of the commonwealth, and he shall, upon receipt of such notice, declare the charter of such club or organization void, and shall publish a notice in at least one newspaper published in the county of Suffolk that such incorporation is void and of no further effect.

Same subject.
1902, 524.
1906, 291, § 10.

SECT. 41. If said police commissioner is at any time of the opinion that a person holding a license to sell intoxicating liquors in the city of Boston has violated or permitted a violation of any condition of his license, he shall forthwith give notice to such licensee of the violation or violations aforesaid, and shall transmit to the licensing board a report in writing containing a statement of the conditions of the license that have been violated, together with a copy of said notice.

Report as to licensee violating conditions of license.
1806, 291, § 15.

SECT. 42. It shall be the duty of the police commissioner and his subordinates to obtain and to furnish to the licensing board such information as may be required by the said board from them or from any of them relative to the character or fitness of a licensee of said board or of an applicant for any license which said board is empowered to issue, relative to the place at which the business authorized by any license is or is proposed to be conducted, and also relative to the manner in which any business authorized by any license is at any time being conducted. Such information may be given in writing or orally as said licensing board may require.

Information as to applicants to be given to licensing board.
1906, 291, § 10.

Suspension,
etc., of license,
when.
1906, 291, § 10.

SECT. 43. The said police commissioner or mayor of the city of Boston may, if in the judgment of either of them an exigency requires, suspend and make inoperative any license to sell intoxicating liquors during any period of tumult, riot or violent disturbance of public order, and any licensee who, personally or by his servants or agents, sells, furnishes or delivers any intoxicating liquors during such suspension shall be punished by a fine of two hundred dollars for each offence, and his license shall become forfeited.

Police to have
rights of way
in streets.
1889, 57.

SECT. 44. The officers and men of the police department of the city of Boston, with the patrol wagons and ambulances thereof, shall have the right of way through any street, lane, or alley in said city, subject to the rights of the Boston fire department and the Boston protective department; and whoever wilfully or maliciously obstructs or retards the passage of such patrol wagons and ambulances, as aforesaid, shall be punished by a fine not exceeding fifty dollars or by imprisonment in jail not exceeding three months.

CHAPTER 55.

THE LICENSING BOARD.

SECTION

1. Appointment and composition of licensing board. Secretary.
2. Salaries of members and secretary.
3. Clerks, stenographers, etc.
4. Powers and duties of board.
5. Annual report.

SECTION

6. Certification of names of applicants.
7. Declaration of forfeiture of license.
8. Disqualification of licensee by forfeiture of license.
9. Number of licenses in Boston.
10. Hours for sale of liquor.

Appointment
and composi-
tion of licens-
ing board.
Secretary.
1906, 291, § 1.

SECTION 1. The governor, with the advice and consent of the council, shall appoint, from the two principal political parties, three citizens of Boston, who shall have resided therein for at least two years immediately preceding the date of their appointment, who shall constitute a licensing board for said city and who shall be sworn to the faithful performance of the duties of their office before entering on the same.

They shall not be in the employ of any person or corporation engaged in the manufacture or sale of intoxicating liquors, or in any way, directly or indirectly, pecuniarily interested in the manufacture or sale of intoxicating liquors, or in any business which requires a license to be issued by them.

One member of said board shall be designated by the governor as chairman and two members shall constitute a quorum. Their terms of office shall be so arranged and designated at the time of appointment that the term of one member shall expire on the first Monday of June, in the year nineteen hundred and eight, of another on the first Monday of June, in the year nineteen hundred and ten, and of the third on the first Monday of June, in the year nineteen hundred

and twelve. Upon the expiration of the term of any member of said board, the governor, with the advice and consent of the council, shall appoint his successor for the term of six years. Vacancies in the board shall be filled by the governor, with the advice and consent of the council, for the unexpired term. The members of said board may be removed by the governor, with the advice and consent of the council, for such cause as he shall deem sufficient. Such cause shall be stated in the order of removal. The board shall appoint a secretary, who shall be exempt from the civil service law, who shall be sworn to the faithful performance of the duties of his office, and who shall keep a record of all proceedings, issue all notices and attest such papers and orders as said board shall direct. His term of office shall be six years, but he may be removed by said board for such cause as it shall deem sufficient. Such cause shall be stated in its order of removal.

SECT. 2. The annual salary of the chairman of said board shall be four thousand dollars, that of each of the other two members thirty-five hundred dollars, and that of the secretary twenty-five hundred dollars. Such salaries shall be paid in monthly instalments by the city of Boston. Subject to the approval of the governor and council, said board shall be provided with such rooms, in the headquarters of the police commissioner, as shall be convenient and suitable for the performance of its duties, the rent of which shall be paid by the city of Boston. Said rooms shall be suitably furnished and equipped, and the expense therefor shall be paid by said city upon requisition of said board.

Salaries of
members and
secretary.
1906, 291, § 2.

SECT. 3. Said board may employ such clerks, stenographers and office employees, and such legal assistance, as it may deem necessary, and the expense thereof and all incidental expenses incurred by the board in the performance of its duties and the exercise of its powers shall be paid by said city upon requisition of the board.

Clerks, sten-
ographers, etc.
1906, 291, § 3.

SECT. 4. Except as otherwise provided, said board shall exclusively exercise in said city all the powers and perform all the duties formerly conferred or imposed upon the board of police of the city of Boston, and upon licensing boards by sections ten to ninety, both inclusive, of chapter one hundred of the Revised Laws and amendments thereof, relative to intoxicating liquors, and by chapter one hundred and two of the Revised Laws and amendments thereof, relative to innholders and common victuallers.

Powers and
duties of
board.
1885, 83.
1906, 291, § 4.
1907, 214.

Said board shall also exercise, except as otherwise provided, all the powers and perform all the duties formerly conferred or imposed by law upon the board of police of the city of Boston, relative to the licensing of picnic groves, skating rinks, intelligence offices, billiard, pool or scippio tables, and all other tables of like character used for hire, gain or reward, and bowling alleys.

All licenses issued by said board shall be signed by a majority of the members thereof and shall be recorded in the office of said board, and all fees for said licenses shall be paid into the treasury of said city.

Annual report.
1906, 291, § 5.

SECT. 5. Said licensing board shall annually in December make a report to the governor. All records of said board shall at all times be open to the inspection of the governor, the mayor of said city, and of such persons as may be designated by either of them.

Certification of
names of
applicants.
1906, 291, § 6.

SECT. 6. Said board shall certify to the police commissioner the name of each applicant for a license, the name of each person to whom a license is issued, the date when each license goes into effect, the kind or class of the license, every change of location or place of business for the exercise of such license and every transfer of a license ordered by it.

Declaration of
forfeiture of
license.
1906, 291, § 15.

SECT. 7. If said licensing board, after a hearing as prescribed by section forty-seven of chapter one hundred of the Revised Laws shall determine that a licensee has violated or permitted a violation of any condition of his license and that said license shall be forfeited, they shall, within fifteen days after the receipt of the report of the police commissioner as required by section thirty-seven of chapter fifty-four so notify said licensee and said commissioner; and said notice may be served upon said licensee by a police officer of said city, by delivering the same to him in hand or by leaving it at the place of abode of the licensee or at the place where the business authorized by such license is carried on. Upon such notice, the license shall become forfeited. If said licensing board finds that said license should not be forfeited, they shall, within fifteen days after the receipt of the report aforesaid, notify said commissioner of such finding, and shall also notify said licensee.

Disqualifica-
tion of licensee
by forfeiture
of license.
1906, 291, § 16.

SECT. 8. If a license becomes forfeited the licensee shall be disqualified to receive a license for one year after the expiration of the term of the license so forfeited, and if he is the owner of the premises described in such forfeited license, no license shall be exercised on said premises for the residue of the term of the license so forfeited.

Number of
licenses in
Boston.
1883, 340.
1899, 248, 341,
462.
R. L. 100, § 13.

SECT. 9. If the city of Boston votes to authorize the granting of licenses for the sale of intoxicating liquors one such place may be licensed for each five hundred of the population as ascertained by the last preceding national or state census, but in no event shall the total number of licensed places therein exceed one thousand.

Hours for sale
of liquors.
R. L. 100, § 17.
1906, 393.

SECT. 10. In the city of Boston, a licensee who is also a licensed innholder may, with the consent of the licensing board and upon the payment of an additional fee of five hundred dollars supply spirituous or intoxicating liquor between the hours of eleven and twelve at night, except on the Lord's day to guests who have resorted to his inn for food or lodging, but only in dining rooms: *provided* that the number of permits for selling during the additional hour aforesaid shall not exceed one for every twenty thousand or fraction thereof of the population as ascertained by the last preceding national or state census.

PART IV.

SUPPLEMENT CONTAINING THE ACTS CONCERNING THE METROPOLITAN DISTRICT AND THE TRANSIT ACTS.

- I. The Metropolitan Parks Acts.
 - II. The Metropolitan Sewerage Acts.
 - III. The Metropolitan Water Acts.
 - IV. The Transit Acts.
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NOTE. — In the following acts, the letter R at the beginning of a section indicates that the section has been repealed, and the letter S indicates that it has been superseded or amended.

I. THE METROPOLITAN PARKS ACTS.

1892. — CHAPTER 342.

AN ACT TO ESTABLISH A BOARD OF METROPOLITAN PARK
COMMISSIONERS AND TO DEFINE ITS POWERS AND DUTIES.

Be it enacted, etc., as follows :

SECTION 1. The governor, by and with the advice and consent of the council, shall appoint three persons, to be known as the Metropolitan Park Commissioners, who shall hold their office for one year from the first day of May in the year eighteen hundred and ninety-two. Said commissioners shall consider the advisability of laying out ample open spaces for the use of the public, in the towns and cities in the vicinity of Boston, and shall have authority to make maps and plans of such spaces and to collect such other information in relation thereto as it may deem expedient, and shall report to the next general court, on or before the first Wednesday of February, a comprehensive plan for laying out, acquiring and maintaining such open spaces.

Metropolitan
Park Commis-
sioners.

SECT. 2. Said commissioners may employ such assistants as they may deem necessary, and may expend such sums therefor and in the discharge of their duties, including the actual travelling expenses of said members, as the governor and council may determine. Said commissioners shall receive no compensation.

Employment
of assistants,
etc.

SECT. 3. This act shall take effect upon its passage.

[Approved June 2, 1892.]

1893. — CHAPTER 407.

AN ACT TO ESTABLISH A METROPOLITAN PARK COMMISSION.

Be it enacted, etc., as follows :

Metropolitan
Park Commis-
sion.

Amended by
Sta. 1899, c. 400;
1900, c. 398; 1901,
c. 146.
165 Mass. 499.
178 Mass. 533.
178 Mass. 218.
182 Mass. 602.
184 Mass. 541.
186 Mass. 348.
188 Mass. 149.
193 Mass. 440.

SECTION 1. S. The governor, by and with the advice and consent of the council, shall appoint five persons, who shall constitute a board to be known as the Metropolitan Park Commission. The members of this board shall hold office respectively for the terms of one year, two years, three years, four years and five years, beginning with the first Monday in May in the year eighteen hundred and ninety-three, and annually thereafter the governor shall appoint as aforesaid one such commissioner, to hold office for the term of five years, beginning with the first Monday in May in the year of his appointment; and if any vacancy occurs in said board by resignation or otherwise the governor shall in like manner appoint a commissioner for the residue of the term in which the vacancy occurs, and may also remove any commissioner. The members of said board shall serve without compensation, but their travelling and other necessary expenses shall be allowed and paid; and no person employed by the board shall be a member thereof.

Chairman,
secretary,
employees, etc.

SECT. 2. Said board shall annually choose one of its members chairman, and may from time to time appoint a clerk or secretary, and such other employees as it deems necessary to carry out the purposes of this act; it may determine the duties and compensation of such appointees, remove the same at pleasure, and make all reasonable rules and regulations. Said board shall have a suitable office, where its maps, plans, documents, records and accounts shall be kept, subject to public inspection at such times as the board may determine. On or before the second Wednesday in December in each year said board shall make a report of its proceedings to the general court, together with a full statement of its receipts and disbursements. Said report shall be numbered as one of the series of public documents, and four thousand copies thereof shall be printed annually.

Metropolitan
Parks District.
178 Mass. 217.

SECT. 3. The jurisdiction and powers of said board shall extend to and may be exercised in the cities of Boston, Cambridge, Chelsea, Everett, Lynn, Malden, Medford, Newton, Quincy, Somerville, Waltham and Woburn, and in the towns of Arlington, Belmont, Braintree, Brookline, Canton, Dedham, Dover, Hingham, Hull, Hyde Park, Melrose, Milton, Nahant, Needham, Revere, Saugus, Stoneham, Swampscott, Wakefield, Watertown, Wellesley, Weston, Weymouth, Winchester and Winthrop; which cities and towns shall constitute the Metropolitan Parks District.

Acquisition
and mainte-
nance of open
spaces for
exercise and
recreation.

SECT. 4. S. Said board shall have power to acquire, maintain and make available to the inhabitants of said district open spaces for exercise and recreation; and to this end, acting so

far as may be in consultation with the proper local boards, shall be authorized to take, in fee or otherwise, in the name and for the benefit of the commonwealth, by purchase, gift, devise or eminent domain, lands and rights in land for public open spaces within said district, or to take bonds for the conveyance thereof; and to preserve and care for such public reservations, and also, in the discretion of said board and upon such terms as it may approve, such other open spaces within said district as may be entrusted, given or devised to said board or to the commonwealth, by the United States, or by cities, towns, corporations or individuals, for the general purposes of this act, or for any one or more of such purposes as the donor may designate: *provided, however*, that no private property taken for the purpose of this act shall be taken under the right of eminent domain without the concurrence of a majority of the board and of the board of park commissioners, if any, of the city or town in which such property is situated: *provided, further*, that no land shall be taken by the right of eminent domain in that part of the city of Medford known as the Middlesex Fells, southerly of a line drawn from the southerly base of Pine hill, northwesterly through the southern end of the dam of the south reservoir of the town of Winchester and extended to the western boundary of said fells, so-called; nor southerly of a line drawn from said southerly base of Pine hill, east to the eastern boundary of said fells: *provided, further*, that said board shall not take by purchase or right of eminent domain, under this act, any land or other property to an amount exceeding in value in the aggregate, with land or other property previously taken by purchase or eminent domain hereunder, ninety per centum of the total amount appropriated by the legislature or contributed by individuals or corporations for that purpose: *provided, further*, that nothing in this act shall be construed to limit existing rights of any city or town in relation to water supply purposes, or in any way obstruct their taking advantage of such rights. In furtherance of the powers herein granted, said board may employ a suitable police force, make rules and regulations for the government and use of the public reservations under their care, and for breaches thereof affix penalties not exceeding twenty dollars for one offence, to be imposed by any court of competent jurisdiction; and in general may do all acts needful for the proper execution of the powers and duties granted to and imposed upon said board by the terms of this act. Said board shall also have power to expend such funds, whether principal or income, as may be given in trust, as provided for in section five.

Amended by
Sts. 1896, c. 273.
184 Mass. 227.
192 Mass. 442.

SECT. 5. The treasurer and receiver general of the commonwealth is hereby authorized and empowered, with the approval of the governor and council, to receive and hold in trust for the commonwealth, exempt from taxation, any grant or devise of lands or rights in land, and any gift or bequest of money or other personal property, made for the purposes of this act, and

Metropolitan
Parks Trust
Fund.

shall preserve and invest the proceeds thereof in notes or bonds secured by good and sufficient mortgage or other securities. Said trust property shall be known as the Metropolitan Parks Trust Fund, and shall be used and expended under the direction of the metropolitan park commission and subject to its orders.

Transfer by cities and towns of open spaces to commission.
178 Mass. 213.

SECT. 6. Any city or town within said district, or any local board of such city or town, with the latter's consent, is hereby authorized and empowered to transfer the care and control of any open space owned or controlled by it to the metropolitan park commission, upon such terms and for such period as may be mutually agreed upon; or to enter into an agreement with said commission for the joint care or preservation of open spaces within or adjacent to such city or town; and the metropolitan park commission may in like manner transfer the care and control of any open space controlled by it to any local board of a city or town within the said district, with the consent of such city or town and upon such terms and for such period as may be mutually agreed upon.

Damages.
164 Mass. 327.
178 Mass. 218.

SECT. 7. Said board shall estimate and determine as near as may be all damages sustained by any person or corporation by the taking of land, or any right therein, under this act; but any one aggrieved by such determination of the board may have such damages assessed by a jury of the superior court, in the same manner as is provided by law with respect to damages sustained by reason of the laying out of ways. If upon trial damages are increased beyond the award of the board the aggrieved party shall recover costs, otherwise such party shall pay costs; and costs shall be taxed as in civil cases; but no suit for such damages shall be brought after the expiration of two years from the date of the recording of the taking, as required by the following section.

Record of description of lands taken as acquired.

SECT. 8. Within sixty days after any land, or right therein, is acquired or taken under this act, the board shall file and cause to be recorded in the proper registry of deeds, a description thereof sufficiently accurate for its identification, with a statement of the purpose for which the same is acquired or taken, which description shall be signed by a majority of said board.

Metropolitan Parks Loan.
Amended by
St. 1894, c. 483.

SECT. 9. S. To meet the expenses incurred under the provisions of this act the treasurer and receiver general shall, with the approval of the governor and council, issue scrip or certificates of debt in the name and behalf of the commonwealth and under its seal, to an amount not exceeding one million dollars, for a term not exceeding forty years. Said scrip or certificates of debt shall be issued as registered bonds or with interest coupons attached, and shall bear interest not exceeding four per cent. per annum, payable semi-annually on the first days of January and July in each year. Such scrip or certificates of debt shall be designated on the face as the Metropolitan Parks Loan; shall be countersigned by the governor, and shall be deemed a pledge of the faith and credit of the commonwealth, and the principal and interest shall be paid at the times specified

therein in gold coin of the United States; and said scrip or certificates of debt shall be sold and disposed of at public auction or in such other mode and at such times and prices, and in such amounts and at such rates of interest, not exceeding the rate above specified, as the governor and council shall deem best. The treasurer and receiver general shall, on issuing any of said scrip or certificates of debt, establish a sinking fund, and apportion an amount to be paid thereto each year sufficient with its accumulations to extinguish the debt at maturity. Any premium realized on the sale of said scrip or certificates of debt shall be applied to the payment of the interest on said loan as it accrues.

SECT. 10. R. The supreme judicial court sitting in equity shall, on the application of said board and after notice to each of the cities and towns hereinbefore named, appoint three commissioners, who shall not be residents of such cities or towns, who shall, after due notice and hearing, and in such manner as they shall deem just and equitable, determine the proportion in which each of such cities and towns shall annually pay money into the treasury of the commonwealth, for the term of five years next following the year of the first issue of said scrip or certificates, to meet the interest and sinking fund requirements for each of said years, as estimated by the treasurer of the commonwealth, and to meet the expenses of preservation and necessary care of said public reservations as estimated by said board and certified to said treasurer, and any deficiency in the amount previously paid in as found by said treasurer, and shall return their award into said court; and when said award shall have been accepted by said court the same shall be a final and conclusive adjudication of all matters herein referred to said commissioners and shall be binding on all parties. Said commissioners shall fix and return the proportion to be paid by the city of Boston for the first period of five years, at fifty per cent. of the whole. Before the expiration of said term of five years, and every five years thereafter, three commissioners, who shall not be residents of any of the cities or towns constituting the metropolitan parks district, shall again be appointed as aforesaid, who shall in such manner as they deem just and equitable determine the proportion in which each of said cities and towns shall annually pay money into the treasury of the commonwealth as aforesaid, for the next succeeding term of five years, together with any deficiency in the amount previously paid in, as found by said treasurer, and shall return their award into said court; and when said award shall have been accepted by said court the same shall be a final and conclusive adjudication of all matters herein referred to said commissioners, and shall be binding on all parties: *provided*, that no assessment shall be levied for the purposes of this act in any one year upon any city or town in excess of a sum equal to one-half mill on the dollar of the valuation thereof.

Apportionment of interest, sinking fund requirements, etc.

Repealed by St. 1896, c 550, § 4.
165 Mass. 497.

Annual estimate of expense of preservation and maintenance.

Amended by St. 1894, c. 509, § 2.
Repealed by St. 1896, c. 550, § 4.

Apportionment to be assessed with state tax.
Repealed by St. 1896, c. 550, § 4.

Enforcement of act and compensation of commissioners.

SECT. 11. **R.** The metropolitan park commission shall annually estimate the expenses of preservation and necessary care of said public reservations for the ensuing year, and certify the same to the treasurer, who shall apportion said expenses in the manner provided in the following section: *provided, however*, that such expenses shall not exceed the sum of ten thousand dollars during the first year, nor exceed the sum of twenty thousand dollars during any succeeding year.

SECT. 12. **R.** The amount of money required each year from each city and town of the metropolitan parks district to meet the interest, sinking fund requirement and expenses aforesaid for each year, and deficiency, if any, shall be estimated by the treasurer of the commonwealth in accordance with the proportion determined as aforesaid, and shall be included in and made a part of the sum charged to such city or town, and be assessed upon it in the apportionment and assessment of its annual state tax; and said treasurer shall in each year notify each city and town of the amount of such assessment, and the same shall be paid by the city or town into the treasury of the commonwealth at the time required for the payment and as a part of its state tax.

SECT. 13. The supreme judicial court shall have jurisdiction in equity to enforce the provisions of this act, and shall fix and determine the compensation of all commissioners appointed by said court under the provisions hereof.

SECT. 14. This act shall take effect upon its passage.

[Approved June 3, 1893.]

1894. — CHAPTER 288.

AN ACT TO AUTHORIZE THE METROPOLITAN PARK COMMISSION TO CONSTRUCT ROADWAYS AND BOULEVARDS.

Be it enacted, etc., as follows :

Construction of roadways and boulevards.
178 Mass. 213.
182 Mass. 602.
192 Mass. 440, 442.

SECTION 1. The board of metropolitan park commissioners, constituted under the authority of chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, is hereby authorized to connect any road, park, way or other public open space with any part of the cities or towns of the metropolitan parks district under its jurisdiction, by a suitable roadway or boulevard, and for this purpose to exercise any of the rights and powers granted to said board by said act, in the manner prescribed by said act, and also to take or acquire in fee or otherwise, in the name and for the benefit of the commonwealth, by purchase, gift, devise or eminent domain, any lands or rights or easements or interest in land within said district, although the land so taken or any part thereof be already a street or way, and to construct and maintain along, across, upon or over the same or any other land acquired by said board

by said act, a suitable roadway or boulevard: *provided, however*, that the concurrence of the board of aldermen in the city of Boston for the county of Suffolk, or the concurrence of each other county or city or town outside of said county of Suffolk, wherein any portion of any street, way, land or rights in land is taken by right of eminent domain be obtained, to the taking of said portion by vote of its county commissioners, city government or board of selectmen respectively.

SECT. 2. Said board shall have the same authority to determine the value of, and assess upon real estate the amount of betterments accruing to, said real estate by the locating and laying out of any roadway or boulevard herein authorized, as is conferred by chapter fifty-one of the Public Statutes upon boards of city or town officers authorized to lay out streets or ways, and the provisions of the first eight sections of said chapter, relating to ways, shall apply to such assessments by said board: *provided, however*, that no assessment shall be made upon any real estate except such as abuts upon the street from the laying out of which the betterment accrues; and *provided, further*, that no betterment or damages shall be assessed upon or paid to any city or town under this act.

Assessment of
betterments.
181 Mass. 494.

SECT. 3. In furtherance of the powers herein granted said board may appoint clerks, police and such other employees as it may from time to time find necessary for the purposes of this act, remove the same at pleasure, and make rules and regulations for the government and use of the roadways or boulevards under its care, breaches whereof shall be breaches of the peace, punishable as such in any court having jurisdiction of the same; and in addition said board shall have the same rights and powers over and in regard to the roadways or boulevards taken and constructed hereunder as are or may be vested in them in regard to other open spaces by said chapter four hundred and seven and acts in amendment thereof and in addition thereto, and shall also have such rights and powers in regard to the same as, in general, counties, cities and towns have over public ways under their control: *provided, however*, that nothing in this act contained shall be taken or held to affect or abridge the right of any city or town lying within said district to pursue and apprehend, as it lawfully may from time to time, any person or persons who commit within the limit of said city or town any breach of any statute, ordinance or regulation. The liability arising out of any defect or want of repair in any roadway or boulevard maintained by said metropolitan park commission under this act, and the rights and remedies thereto appertaining, shall be in all respects the same as those provided by law in relation to the repairs of public ways and bridges, in chapter fifty-two of the Public Statutes and any acts passed from time to time in addition thereto or amendment thereof. Actions seeking to enforce such rights and remedies shall be brought against the commissioners as such, but there shall never be any personal liability on the part of them or any of them to

General
powers and
duties of com-
missioners.
182 Mass. 598.

Liability for
defects in
roadways.

any person injured as aforesaid by reason of such defect or want of repair. Notices required to be served upon the defendant in proceedings hereunder shall be served upon the chairman of the board or its secretary. All sums recovered against said commission under the foregoing provisions, together with any costs of suit and counsel fees, expenses and interest, shall be taken and held to be expenses of care and maintenance, within the intent and meaning of this act as hereinafter expressed and provided for. Said board may maintain in repair and lease buildings, together with land appurtenant thereto, upon any portion of the property at any time taken or acquired by it; and also may erect, maintain in repair and lease such buildings, with land appurtenant thereto, upon any property at any time under its control, as may fairly be necessary to serve the public uses for which such property is held. Said board shall have suitable office accommodations for its purposes, and shall keep the plans, documents, records and accounts of its doings at such office, and each year shall include a report of the same, with a full statement of receipts and disbursements hereunder in the report required by said chapter four hundred and seven.

Takings may be concurred in by local boards.

SECT. 4. The board of aldermen of said city of Boston for the county of Suffolk, and all other counties lying partly within said district by vote of their county commissioners, the cities within said district by vote of their city governments, and the towns within said district by vote of their selectmen, are hereby respectively authorized and empowered to concur in any taking by said board, and thereby to transfer their rights in any streets or lands taken thereunder.

Damages.
188 Mass. 394.
186 Mass. 371.
190 Mass. 581.

SECT. 5. Said board shall estimate and determine as near as may be all damages sustained by any person or corporation by the taking of land, or any right therein under this act; but any one aggrieved by such determination of the board may have such damages assessed by a jury of the superior court in the same manner as is provided by law with respect to damages sustained by reason of the laying out of ways. If upon trial damages are increased beyond the award of the board the aggrieved party shall recover costs, otherwise such party shall pay costs; and costs shall be taxed as in civil cases; but no suit for such damages shall be brought after the expiration of two years from the date of the recording of the taking, as required by the following section.

Record of description of takings.

SECT. 6. Within sixty days after any street, way, land or right therein is acquired or taken under this act, the board shall file and cause to be recorded in the proper registry of deeds, a description thereof sufficiently accurate for its identification, with a statement of the purpose for which the same is acquired or taken, which description shall be signed by a majority of said board.

Metropolitan
Parks Loan,
Series Two.

SECT. 7. To meet the expenses of taking and constructing said roadways or boulevards herein provided for, the treasurer

and receiver general shall, with the approval of the governor and council, issue scrip or certificates of debt in the name of the commonwealth and under its seal, to an amount not exceeding five hundred thousand dollars, for a term not exceeding forty years. Such scrip or certificates of debt shall be registered as bonds or with interest coupons attached, and shall bear interest not exceeding four per cent. per annum, payable on the first days of January and July in each year. Such scrip or certificates of debt shall be designated on the face as Metropolitan Parks Loan, Series Two; shall be countersigned by the governor, and shall be deemed a pledge of the faith and credit of the commonwealth, and the principal and interest shall be paid at the times specified therein, in gold coin of the United States; and said scrip or certificates of debt shall be sold and disposed of at public auction or in such other mode and at such times and prices, and in such amounts and at such rates of interest, not exceeding the rate above specified, as the governor and council shall deem best. The treasurer and receiver general shall on issuing any of said scrip or certificates of debt establish a sinking fund and apportion an amount to be paid thereto each year sufficient with its accumulations to extinguish the debt at maturity. Any premium realized on the sale of said scrip or certificates of debt shall be applied to the payment of the interest on this loan as it accrues.

SECT. 8. R. The commissioners required to be appointed by section eight of said chapter four hundred and seven shall also, in the manner therein required, determine the proportion in which each of the cities and towns of the said district shall annually pay money into the treasury of the commonwealth, during each of the five years next following the first issue of said scrip or certificates of debt, to meet one half the interest and sinking fund requirements for each of said years, as estimated by the treasurer of the commonwealth, and one half the expense of care and maintenance, and one half of the office and running expenses of said board occasioned by this act, as estimated by said board and certified to said treasurer, and one half of any deficiency in the amount previously paid in, and shall then return their award into said court; and when said award shall have been accepted by said court the same shall be a final and conclusive adjudication of all matters herein referred to said commissioners and shall be binding on all parties. Before the expiration of said term of five years, and every five years thereafter, the commissioners then appointed under said section eight of said act shall, in the manner directed in said act, determine the proportion in which each of the cities and towns of said district shall annually pay money into the treasury of the commonwealth as aforesaid, for the ensuing term of five years, and shall return their award into said court; and when said award shall have been accepted by said court the same shall be a final and conclusive adjudication of all matters herein referred to said commissioners and

Apportionment of interest, sinking fund requirements, etc.

Repealed by St. 1896, c. 550, § 4.

Annual estimate of expenses of preservation and care of reservations, etc.

Repealed by St. 1896, c. 550, § 4.

Apportionment to be assessed with state tax.

Repealed by St. 1896, c. 550, § 4.

Enforcement of act and compensation of commissioners.

shall be binding on all parties. The remaining one half of all said annual expenses shall be paid by the commonwealth.

SECT. 9. R. The metropolitan park commission shall annually estimate the expenses of preservation and necessary care of said public reservations for the ensuing year, and the proportion of office and running expenses occasioned by the passage of this act, and certify the same to the treasurer, who shall apportion said expenses in the manner provided in the following section.

SECT. 10. R. The amount of money required each year from each city and town of the metropolitan parks district, to meet the interest, sinking fund requirement and expenses aforesaid for each year, and deficiency, if any, shall be estimated by the treasurer of the commonwealth in accordance with the proportion determined as aforesaid, and shall be included in and made a part of the sum charged to such city or town and be assessed upon it in the apportionment and assessment of its annual state tax; and said treasurer shall in each year notify each city and town of the amount of such assessment, and the same shall be paid by the city or town into the treasury of the commonwealth at the time required for the payment and as a part of its state tax. The amount of money required each year to meet the remaining one half of the interest, sinking fund requirement and expenses aforesaid for each year and deficiency, if any, shall be included in and made a part of the annual state tax levy.

SECT. 11. The supreme judicial court shall have jurisdiction in equity to enforce the provisions of this act and shall fix and determine the compensation of all commissioners appointed by said court, whether under the provisions hereof or of said chapter four hundred and seven.

SECT. 12. This act shall take effect upon its passage.

[Approved April 21, 1894.]

1894. — CHAPTER 483.

AN ACT TO AUTHORIZE THE COMMONWEALTH TO ACQUIRE THE LOCATION IN PART OF THE BOSTON, REVERE BEACH AND LYNN RAILROAD, AND TO AUTHORIZE A RELOCATION IN PART OF SAID RAILROAD.

Be it enacted, etc., as follows :

Taking of lands, flats and beach in Revere.
185 Mass. 497, 500.
192 Mass. 440, 442.

SECTION 1. The metropolitan park commission created by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three is hereby further authorized and empowered, to the full extent of the commonwealth's power of eminent domain, to take and acquire in the name and for the benefit of the commonwealth, by the exercise hereunder of any

of the powers named in said act and in the manner therein prescribed, all the right, title and interest of the public or any corporation or individual in, to or concerning, any of the land, flats or beach in the town of Revere lying along, upon or near, and including so much of, the present location and railroad of the Boston, Revere Beach and Lynn Railroad Company as said board may deem best, and to hold, maintain and care for the same as a park or public open space for exercise and recreation, in the manner prescribed in said act: *provided, however*, that said board shall not interfere with the operation of said railroad during a period of twelve months from the time of taking or acquiring any portion thereof.

SECT. 2. The damages sustained by said railroad company or by any other corporation or individual by reason of any taking or acquisition hereunder by said board, shall be estimated, determined, assessed and recovered in the manner provided in section seven of said chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three. Damages.

SECT. 3. Said board may erect, maintain in repair or lease such buildings, with land appurtenant thereto, as they may deem necessary, upon any property at any time lawfully held or controlled by them under the provisions of this act. Erection, etc.,
of buildings.

SECT. 4. Section nine of said chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three is hereby amended by inserting in the second line, after the word "act", the words: — and all other acts in amendment hereof and in addition hereto, — and by inserting in the sixth line, after the word "million", the words: — five hundred thousand, — so as to read as follows:— *Section 9.* To meet the expenses incurred under the provisions of this act and all other acts in amendment hereof and in addition hereto, the treasurer and receiver general shall, with the approval of the governor and council, issue scrip or certificates of debt in the name and behalf of the commonwealth and under its seal, to an amount not exceeding one million five hundred thousand dollars, for a term not exceeding forty years. Said scrip or certificates of debt shall be issued as registered bonds or with interest coupons attached, and shall bear interest not exceeding four per cent. per annum, payable semi-annually on the first days of January and July in each year. Such scrip or certificates of debt shall be designated on the face as the Metropolitan Parks Loan; shall be countersigned by the governor, and shall be deemed a pledge of the faith and credit of the commonwealth, and the principal and interest shall be paid at the times specified therein in gold coin of the United States; and said scrip or certificates of debt shall be sold and disposed of at public auction or in such other mode and at such times and prices, and in such amounts and at such rates of interest, not exceeding the rate above-specified, as the governor and council shall deem best. The treasurer and receiver general shall, on issuing any of said scrip or certificates of debt, establish a sinking fund, and apportion an amount Amendment
to
1898, 407, § 9.

Metropolitan
Parks Loan.

to be paid thereto each year sufficient with its accumulations to extinguish the debt at maturity. Any premium realized on the sale of said scrip or certificates of debt shall be applied to the payment of the interest on said loan as it accrues.

Railroad company may acquire new location.

SECT. 5. After such taking or acquisition of its lands, railroad or location hereunder, said railroad company may, in accordance with the provisions of chapter one hundred and twelve of the Public Statutes and of all general laws then in force relating to the fixing of the route of railroads, the laying out of the same and the taking of lands and the payments of damages therefor, take a new location and necessary land and rights in land within the town of Revere, and construct, maintain and operate a new line of railroad outside of the lands taken or acquired by said board, in place of the portion of the location and railroad taken or acquired as aforesaid.

SECT. 6. This act shall take effect upon its passage.

[Approved June 16, 1894.]

1894. — CHAPTER 509.

AN ACT TO AUTHORIZE THE METROPOLITAN PARK COMMISSION TO EXPEND A SUM OF MONEY IN ADDITION TO THE AMOUNTS HERETOFORE AUTHORIZED, FOR OPEN SPACES ALONG OR NEAR THE CHARLES RIVER.

Be it enacted, etc., as follows :

Metropolitan
Parks Loan.
185 Mass. 497,
500.

SECTION 1. The metropolitan park commission, for the purpose of acquiring and making available, under chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, open spaces for exercise and recreation along or near the Charles river, from the Essex street bridge, so-called, at Cottage Farms, towards the source of the river, may expend the sum of three hundred thousand dollars in addition to any and all sums hitherto authorized to be expended by them by said act and by all acts in addition thereto or in amendment thereof; and to meet the expenses incurred hereunder, the treasurer and receiver general shall issue a corresponding amount of scrip or certificates of indebtedness as an addition to the metropolitan parks loan, and establish a sinking fund to provide for the same; said scrip or certificates of indebtedness to be issued and said sinking fund to be established, assessed and collected in accordance with the provisions of sections nine, ten, eleven and twelve of chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, as far as applicable hereto.

St. 1893, c. 407,
§ 11, amended.
Annual estimate of
expense of
maintenance.

SECT. 2. Said act is hereby amended by striking out section eleven and inserting in place thereof the following: — *Section 11.* The metropolitan park commission shall annually estimate and certify to the auditor the expenses of preservation and neces-

sary care of said public open spaces for the ensuing year, which expenses shall be apportioned by the treasurer and receiver general in the manner provided in the following section.
[Approved June 22, 1894.]

1895.—CHAPTER 272.

AN ACT CHANGING THE LIMITS WITHIN WHICH LAND MAY
 BE TAKEN BY THE METROPOLITAN PARK COMMISSION
 WITHIN THE CITY OF MEDFORD.

Be it enacted, etc., as follows :

Section four of chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three is hereby amended by striking out in the twenty-fifth, twenty-sixth, twenty-seventh and twenty-eighth lines, the words "the southerly base of Pine hill, northwesterly through the southern end of the dam of the south reservoir of the town of Winchester, and extended to the western boundary of said fells, so-called; nor", and inserting in place thereof the words: — the westerly line of Forest street, north fifty-three degrees west, through a point three hundred feet south of the southerly base of Pine hill, and thence in the same course two thousand two hundred and seventy feet to a point at or near Meeting-house brook, so-called; thence north twenty-five degrees west, two thousand two hundred and eighty feet to a point; thence north fifty-four degrees west, eight hundred and thirty feet to a point; and thence north thirty-three degrees west to the boundary line of the town of Winchester; nor east of said westerly line of Forest street and, — so as to read as follows: — *Section 4.* Said board shall have power to acquire, maintain and make available to the inhabitants of said district open spaces for exercise and recreation; and to this end, acting so far as may be in consultation with the proper local boards, shall be authorized to take, in fee or otherwise, in the name and for the benefit of the commonwealth, by purchase, gift, devise or eminent domain, lands and rights in land for public open spaces within said district, or to take bonds for the conveyance thereof; and to preserve and care for such public reservations, and also, in the discretion of said board and upon such terms as it may approve, such other open spaces within said district as may be entrusted, given or devised to said board or to the commonwealth, by the United States, or by cities, towns, corporations or individuals, for the general purposes of this act, or for any one or more of such purposes as the donor may designate: *provided, however,* that no private property taken for the purpose of this act shall be taken under the right of eminent domain without the concurrence of a majority of the board and of the board of park commissioners,

St. 1893, c. 407,
 § 4, amended.

Acquisition
 and mainte-
 nance of open
 spaces for ex-
 ercise and
 recreation.

if any, of the city or town in which such property is situated; *provided, further*, that no land shall be taken by the right of eminent domain in that part of the city of Medford known as the Middlesex Fells, southerly of a line drawn from the westerly line of Forest street, north fifty-three degrees west, through a point three hundred feet south of the southerly base of Pine hill, and thence in the same course two thousand two hundred and seventy feet to a point at or near Meeting-house brook, so-called; thence north twenty-five degrees west, two thousand two hundred and eighty feet to a point; thence north fifty-four degrees west, eight hundred and thirty feet to a point; and thence north thirty-three degrees west, to the boundary line of the town of Winchester; nor east of said westerly line of Forest street and southerly of a line drawn from said southerly base of Pine hill, east to the eastern boundary of said fells; *provided, further*, that said board shall not take by purchase or right of eminent domain, under this act, any land or other property to an amount exceeding in value in the aggregate, with land or other property previously taken by purchase or eminent domain hereunder, ninety per centum of the total amount appropriated by the legislature or contributed by individuals or corporations for that purpose; *provided, further*, that nothing in this act shall be construed to limit existing rights of any city or town in relation to water supply purposes, or in any way obstruct their taking advantage of such rights. In furtherance of the powers herein granted, said board may employ a suitable police force, make rules and regulations for the government and use of the public reservations under their care, and for breaches thereof affix penalties not exceeding twenty dollars for one offence, to be imposed by any court of competent jurisdiction; and in general may do all acts needful for the proper execution of the powers and duties granted to and imposed upon said board by the terms of this act. Said board shall also have power to expend such funds, whether principal or income, as may be given in trust, as provided for in section five. [*Approved April 12, 1895.*]

1895. — CHAPTER 283.

[Repealed by St. 1903, c. 118.]

AN ACT RELATIVE TO THE METROPOLITAN PARKS LOANS SINKING FUNDS.

Be it enacted, etc., as follows:

SECTION 1. **R.** The treasurer and receiver general is hereby authorized to consolidate the sinking funds established for the payment of the metropolitan parks loan, issued under the provisions of chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three and chapters four hun-

Consolidation
of sinking
funds.
1894, 288, § 9.

dred and eighty-three and five hundred and nine of the acts of the year eighteen hundred and ninety-four, and for the payment of the Metropolitan Parks Loan, Series Two, issued under the provisions of chapter two hundred and eighty-eight of the acts of the year eighteen hundred and ninety-four, into one sinking fund, to be known as the Metropolitan Parks Loans Sinking Fund.

SECT. 2. This act shall take effect upon its passage.

[Approved April 17, 1895.]

1895. — CHAPTER 305.

AN ACT RELATIVE TO THE TAKING, BY THE METROPOLITAN PARK COMMISSION, OF REVERE BEACH, SO-CALLED, IN THE TOWN OF REVERE.

Be it enacted, etc., as follows :

SECTION 1. The metropolitan park commission, created by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, for the purpose of carrying out the provisions of said act and of any acts in amendment thereof or in addition thereto, including chapter four hundred and eighty-three of the acts of the year eighteen hundred and ninety-four, may expend the further sum of five hundred thousand dollars, in addition to all sums hitherto authorized to be expended by it; and to meet any expenditure under the authority of this act the treasurer and receiver general shall issue a corresponding amount of scrip or certificates of indebtedness as an addition to the metropolitan parks loan, and establish a sinking fund to provide for the same; said scrip or certificates of indebtedness to be issued and said sinking fund to be established, assessed and collected in accordance with the provisions of sections nine, ten, eleven and twelve of said chapter four hundred and seven.

Metropolitan
Parks Loan.

SECT. 2. If any portion of its present location and property is taken by the metropolitan park commission under the provisions of chapter four hundred and eighty-three of the acts of the year eighteen hundred and ninety-four the Boston, Revere Beach and Lynn Railroad Company, authorized by section five of said act to take a new location within the town of Revere, is hereby further authorized and empowered, for the purpose of carrying out the provisions of said act and all acts in amendment thereof and in addition thereto, to take and acquire any portion of the location and property of the Boston and Maine Railroad within the town of Revere, and to construct, maintain and operate a new line of railroad thereon, in accordance with the provisions of section five of said act: *provided, however*, that said Boston, Revere Beach and Lynn Railroad Company shall not interfere with the operation of said Boston and Maine Railroad during

Boston, Revere
Beach and
Lynn Railroad
Company may
acquire prop-
erty and
location of
Boston and
Maine Rail-
road.

the period of six months from the time of taking or acquiring any portion of its location and property hereunder.

Boston and
Maine Rail-
road may
acquire new
location.

SECT. 3. If any portion of the location and property of the Boston and Maine Railroad is taken by the Boston, Revere Beach and Lynn Railroad Company under the provisions of this act, or under any provisions of law, said Boston and Maine Railroad is hereby authorized and empowered, in accordance with the provisions of chapter one hundred and twelve of the Public Statutes and of all general laws then in force relating to the fixing of the route of railroads, the laying out of the same and the taking of lands and payment of damages therefor, to take and acquire a new location and necessary land and rights in land within said town of Revere, and not a part of the lands taken or acquired by said commission as an open space, and also to construct, maintain and operate a new line of railroad outside of the lands taken or acquired by said Boston, Revere Beach and Lynn Railroad Company, in place of the portion of the location and railroad taken or acquired as aforesaid.

Damages.

SECT. 4. The commonwealth shall compensate said railroad companies and each of them for all damages sustained and expenses incurred by them and each of them by reason of any acts done under the authority of this chapter or of chapter four hundred and eighty-three of the acts of the year eighteen hundred and ninety-four; said damages and expenses to be determined by agreement between said parties and each of them, and said board, and in case of disagreement, then to be determined by a commission of three disinterested persons to be appointed by a justice of the supreme judicial court, or to be determined by a jury in the superior court for the county of Suffolk, upon petition of any interested party.

Assessment of
betterments.

SECT. 5. The metropolitan park commission shall have the same authority to determine the value of and assess upon real estate the amount of betterments accruing to said real estate by reason of any taking by said commission under any provisions of law, of land for open spaces for exercise and recreation, which is conferred upon boards of park commissioners in towns and cities by section seven of chapter one hundred and fifty-four of the acts of the year eighteen hundred and eighty-two.

SECT. 6. This act shall take effect upon its passage.

[Approved April 24, 1895.]

1895. — CHAPTER 450.

AN ACT RELATIVE TO THE METROPOLITAN PARK COMMISSION.

Be it enacted, etc., as follows:

Additional
powers of
commission.
183 Mass. 294.
185 Mass. 372.
188 Mass. 149.

SECTION 1. The metropolitan park commission may, for all purposes not inconsistent with the purposes specified in the act establishing said commission, and acts in amendment thereof

and in addition thereto, erect, maintain and care for buildings, and, by deed executed, acknowledged and recorded according to the laws of the commonwealth, grant or accept and assent to any deed containing reservations of easements, rights of way and privileges in life estates, estates for the life of another and estates for years, including leases in, upon, under and over any portion of the lands now or hereafter taken or acquired by it, all for such considerations and rentals and upon such terms, restrictions, provisions or agreements as said commission may deem best. Said commission may remove or sell at public or private sale surplus earth, rock, ice, wood, hay, standing grass, old buildings and materials, and fix the price and terms thereof, collect the money due therefrom, and sue to recover or enforce the same in the courts of the commonwealth. All moneys received therefrom in each year shall be accounted for and paid to the treasurer and receiver general by said commission.

SECT. 2. Said commission, with the concurrence of a majority of the board of park commissioners, if any, of the city or town in which the property is situated, may, by deed executed, acknowledged and recorded according to the laws of the commonwealth, accompanied by plan or survey, also to be recorded, abandon any portion of the lands or rights in land taken or acquired by it, and said abandonment shall revest the title thereof, as if never taken, in the persons, their heirs and assigns, in whom it was vested at the time of taking. If a majority of said commission vote to abandon any portion of the lands or rights in land taken or acquired by it and the board of park commissioners of the city or town in which such property is situated refuse or fail to concur with said commission within fourteen days from the giving of written notice of such vote to such board of park commissioners, then in such case said commission, upon notice in writing of not less than seven days to such board of park commissioners, may appear before the governor and council and ask for the concurrence of the governor and council in such abandonment; and if the governor and council after a hearing thereon concur in such abandonment the same shall have full force and effect. The said abandonment may be pleaded in reduction of damages in any suit therefor on account of such taking. Said commission, with the concurrence of the majority of the board of park commissioners, if any, in the city or town in which the property is situated, may at any time sell at public or private sale any portion of the land or rights in land, the title to which has been taken or received or acquired and paid for by it, and may, with the concurrence of such board of park commissioners, execute and acknowledge a deed thereof, with or without covenants of title and warranty, all in the name and behalf of the commonwealth, to the purchaser, his heirs and assigns, and deposit said deed with the treasurer and receiver general of the commonwealth, together with a certificate of the terms of sale and price paid or agreed to be paid at such sale; and said treasurer

Abandonment
or sale of cer-
tain lands,
rights, etc.
190 Mass. 681.

and receiver general, upon receipt of said price and upon the terms agreed in said deed, shall deliver the same to said purchaser. If a majority of said commission vote to sell any portion of the lands or rights in land taken or acquired by it and the board of park commissioners in the city or town in which such property or right in property is situated refuses or fails to concur with said commission within fourteen days from the giving of written notice of such vote to such board of park commissioners, then and in such case said commission, upon notice in writing of not less than seven days to such board of park commissioners, may appear before the governor and council and ask for the concurrence of the governor and council in such sale; and if the governor and council after a hearing thereon concur in such sale it shall have full force and effect. The treasurer and receiver general may by the attorney general sue for and collect the price and enforce the terms of any such sale.

Acceptance and maintenance of lands given to the commonwealth.

SECT. 3. Said commission may accept and maintain as a portion of the public reservations, under the provisions of the act establishing said commission, and acts in amendment thereof and in addition thereto, including this act, any lands or rights in land which may be given to the commonwealth, *provided* such lands lie within the limits of the metropolitan parks district, or without such limits but immediately contiguous thereto.

Assessment of betterments.

SECT. 4. Said commission shall have the same power and authority to determine the value of and assess upon real estate the amount of betterments accruing to said real estate by reason of any taking made by said commission under the provisions of law, of land for open spaces for exercise and recreation, as is now conferred upon boards of park commissioners in cities and towns by section seven of chapter one hundred and fifty-four of the acts of the year eighteen hundred and eighty-two in regard to the location and laying out of parks; and shall also have full power and authority to abate such proportion of any assessment for betterments made by it hereunder as it shall deem just and expedient; and also to authorize the treasurer and receiver general of the commonwealth to refund to the proper person or persons the amount of such abatement of any assessment already paid.

Disposition of certain moneys.

SECT. 5. The treasurer and receiver general shall pay into the metropolitan parks loans sinking fund all moneys received under the provisions of this act.

Money advanced for payment upon pay-rolls and other accounts. Amended by St. 1901, c. 380.

SECT. 6. S. The secretary of the metropolitan park commission, or such other person as said board may designate, may have advanced to him from the money in the treasury of the commonwealth known as the metropolitan parks loan such sums, not exceeding ten thousand dollars at any time, as the auditor may certify to be necessary to enable said board to make direct payment upon its pay rolls and other accounts. The person so designated by said board shall give a bond with sufficient sureties, to be approved by the auditor of the commonwealth, in the

sum of ten thousand dollars. As soon as may be after expending such advance, and in any case within thirty days from its receipt, the person who has received the money from the commonwealth under the provisions of this act shall file with the auditor a statement in detail of the sums expended subsequent to the previous accounting, approved by the board, if any, authorized to supervise such expenditure, and, where it is practicable to obtain them, accompanied by receipts or other like vouchers of the persons to whom the payments have been made.

SECT. 7. S. Said commission shall publish the rules and regulations made by it from time to time. Said publication shall be made at least six times in at least three newspapers printed and published in each county which is wholly or in part within said metropolitan parks district, and such publication shall be sufficient notice to all persons. The sworn certificate of any member of said commission, or of its secretary, that said rules and regulations have been published as herein provided, shall be *prima facie* evidence thereof. A copy of said rules and regulations, attested by any member of said commission or by its secretary, shall be *prima facie* evidence that said rules and regulations have been made by said commission, as provided by law.

Publication of rules and regulations.

Amended by St. 1901, c. 98.

SECT. 8. Whoever violates any rule or regulation lawfully made by said commission shall be punished by a fine not exceeding twenty dollars.

Penalty for violation of rules.

SECT. 9. The police appointed or employed by said commission in accordance with the provisions of chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three and chapter two hundred and eighty-eight of the acts of the year eighteen hundred and ninety-four shall have all the powers of police officers and constables for the maintenance of the public peace upon any lands, roadways or boulevards under its care, and upon any roadways passing through or bordering upon said lands.

Powers of police. 1893, 407, § 4. 1894, 288, § 3.

SECT. 10. Said commission may employ counsel to advise, assist and represent it; and such counsel, if approved by the district attorney for any county within the park district, shall have full power and authority to represent the interests of the commonwealth in the superior court in such county in all matters arising under said acts or any of them, or under this act; and, if approved by the attorney-general, shall have full power and authority to represent the interests of the commonwealth in the supreme judicial court in all matters arising under said acts or any of them, or under this act.

Employment of counsel. 1893, 407, § 2.

See St. 1896, c. 490.

SECT. 11. The secretary of the commonwealth shall on the request of said commission certify in writing under the seal of the commonwealth the names of the commissioners or of their secretary, and such certificates shall be sufficient *prima facie* evidence for any and all purposes. [Approved June 3, 1895.]

Evidence of appointment of commissioners or secretary. 1893, 407, § 1.

1896.—CHAPTER 465.

AN ACT TO BETTER DEFINE THE AUTHORITY OF THE METROPOLITAN PARK COMMISSION.

Be it enacted, etc., as follows :

Exceptions
and reserva-
tions in certain
takings to be
valid.

SECTION 1. Whenever by reason of a taking by the commonwealth through its metropolitan park commission, duly concurred in according to law, an existing public street is so affected that the public rights therein might otherwise be abridged, either by being wholly or in part included within the taking, any and all exceptions and reservations made in said taking in favor of any municipality within which said street or any part thereof may lie, and of the public, and of any corporations and individuals (said taking being accompanied by a plan showing the land included therein and the street so affected), shall be valid, effectual and binding ; and in order to insure to the parties from time to time concerned the full and perfect enjoyment of the uses thereby reserved said board is hereby authorized and empowered from time to time to make grants or conveyances of easements, to enter into agreements, to issue licenses, and generally to conclude arrangements to that end, all in its discretion ; but no such grant, agreement, license or arrangement shall be taken or held to abrogate or abridge the control of said board over the land included in said taking except as in said exceptions and reservations provided, or the right of said board from time to time in its discretion to make rules and regulations for the government and use of any roadway, boulevard or crossway, which may at any time hereafter be laid out and maintained over said land or over any portion thereof, not inconsistent with such exceptions and reservations.

Lands, etc.,
may be trans-
ferred for care
and control.

Amended by
St. 1898, c. 455.

SECT. 2. S. Said commission is hereby authorized and empowered to transfer for care and control, including police protection, any lands or rights or easements or interest in land, although the same be a roadway or boulevard owned or controlled by it, to any city, town or county, or local board of a city or town within the metropolitan parks district, with the consent of such city, town, county or board, and upon such terms and for such period as may be mutually agreed upon, and to enter into an agreement with any such city, town or county or board for the joint care and control or police protection of said land or boulevard, and also for laying out, constructing and maintaining streets or ways into or across any such land or boulevard ; and any city, town or county, or any local board within the metropolitan parks district, is hereby authorized and empowered to transfer for care and control, including police protection, any land, rights, easements or interest in land in its control, although the same be already a part of a public street owned or controlled by it, to the metropolitan park commission

for such period and upon such terms as may be mutually agreed upon, and to enter into an agreement with said commission for the joint care and control, including police protection, of said land or street.

SECT. 3. Said commission is hereby authorized to join with any city, town or county in the laying out, improvement, relocation, widening, repairing, maintaining and caring for any public street, way, bridge or stream which lies along or connects any lands, roadways or boulevards, or any sewer, water pipe or other conduit in such public street, way or bridge, or in or across any park, road or boulevard, or park reservation or open space owned or controlled by it, and in the expense of such work, and for such purposes or any of them to make contribution to such city, town or county by a grant of land or rights in land, although the same be already a roadway or boulevard, or by payment of money for its portion of such expense.

Commission may join with cities, etc., in laying out, etc., certain public streets.

SECT. 4. This act shall take effect upon its passage.

[Approved June 4, 1896.]

1896. — CHAPTER 466.

AN ACT INCREASING THE AMOUNT OF MONEY TO BE PLACED AT THE DISPOSAL OF THE METROPOLITAN PARK COMMISSION FOR GENERAL PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. The metropolitan park commission, created by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, for the purpose of carrying out the provisions of said act and of all acts in amendment thereof or in addition thereto, including chapters four hundred and eighty-three and five hundred and nine of the acts of the year eighteen hundred and ninety-four, and chapter four hundred and fifty of the acts of the year eighteen hundred and ninety-five, may expend the further sum of one million dollars in addition to all sums heretofore authorized to be expended by it; and to meet expenditures incurred under authority of this act the treasurer and receiver general shall issue a corresponding amount of scrip or certificates of indebtedness as an addition to the metropolitan parks loan, and shall add to the existing sinking fund heretofore authorized to provide for the payment of the same; said scrip or certificates of indebtedness shall be issued and additions to said sinking fund so established shall be assessed and collected in accordance with the provisions of sections nine, ten, eleven and twelve of said chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three and the provisions of chapter two hundred and eighty-three of the acts of the year eighteen hundred and ninety-five.

Metropolitan Parks Loan.

SECT. 2. This act shall take effect upon its passage.

[Approved June 4, 1896.]

1896. — CHAPTER 472.

AN ACT INCREASING THE AMOUNT OF MONEY PLACED AT THE DISPOSAL OF THE METROPOLITAN PARK COMMISSION FOR THE CONSTRUCTION OF ROADWAYS AND BOULEVARDS.

Be it enacted, etc., as follows :

Metropolitan
Parks Loan,
Series Two.

SECTION 1. The metropolitan park commission, created by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, may, for the purposes of constructing roadways and boulevards under the authority of chapter two hundred and eighty-eight of the acts of the year eighteen hundred and ninety-four and of any acts in amendment thereof or in addition thereto, expend the further sum of five hundred thousand dollars in addition to all sums hitherto authorized to be expended by it, for the purposes of constructing such roadways and boulevards; and to meet any expenditure under the authority of this act the treasurer and receiver general shall issue a corresponding amount of scrip or certificates of indebtedness or bonds as an addition to the Metropolitan Parks Loan, Series Two. The sinking fund already established by law shall also be maintained for the purpose of extinguishing scrip, certificates or bonds issued under the authority of this act. Any premium realized on the sale of said scrip or certificates or bonds shall be applied to the payment of the interest on the loan hereby authorized, as it accrues. Said scrip or certificates of indebtedness or bonds shall be issued and said sinking fund assessed and collected in accordance with the provisions of said chapter two hundred and eighty-eight of the acts of the year eighteen hundred and ninety-four.

SECT. 2. This act shall take effect upon its passage.

[Approved June 4, 1896.]

1896. — CHAPTER 550.

[Repealed by St. 1899, c. 419, § 3.]

AN ACT RELATIVE TO THE METROPOLITAN PARKS AND BOULEVARDS.

Be it enacted, etc., as follows :

Completion of
takings and
laying out and
construction of
parks, reserva-
tions, etc.

SECTION 1. R. The metropolitan park commission shall, prior to the first day of January in the year nineteen hundred, take all the lands which it is authorized to take, and shall lay out and construct all the parks, reservations, boulevards and other works which it is authorized to lay out and to construct, and the treasurer of the commonwealth shall pay from the pro-

ceeds of the loans authorized for the purpose of meeting the expense of taking said lands, of laying out said parks and reservations and of constructing said boulevards and other works, or from the proceeds of any of said loans, all moneys required prior to and including the first day of January in the year eighteen hundred and ninety-six to and including said first day of January in the year nineteen hundred, to meet the interest and sinking fund requirements for said loans as estimated by said treasurer and to meet the cost of maintenance and operation of said parks, reservations, boulevards and other works as annually authorized by the legislature, and to meet such amount as has heretofore been paid from the treasury of the commonwealth for such cost.

SECT. 2. R. The supreme judicial court sitting in equity shall in the year nineteen hundred, and in every fifth year thereafter, on the application of said commissioners or of the attorney of either of the cities or towns in the metropolitan parks district, and after notice to each of said cities and towns, appoint three commissioners, neither of whom shall be a resident of either of said cities and towns, who shall, after such notice and hearing as they shall deem sufficient and in such manner as they shall deem just and equitable, determine the proportions in which each of said cities and towns shall pay money into the treasury of the commonwealth each year for the term of five years, beginning with the first day of January in each year in which such commissioners are required to be appointed, to meet said interest, sinking fund requirements, and cost, for such year, and any deficiency in the amount previously paid in as found by said treasurer, and shall return their award into said court: *provided, however*, that the commissioners shall fix and return the proportion to be paid by the city of Boston for each year of the first of said terms at fifty per cent. Every such award when accepted by the court shall be a final and conclusive adjudication for the term, of all matters referred to the commissioners, and shall be binding upon all parties.

Apportionment of interest, sinking fund requirements, etc.

SECT. 3. R. The treasurer of the commonwealth shall in the year nineteen hundred, and in each year thereafter, estimate, in accordance with the proportions determined as aforesaid, the several amounts required during the year beginning with the first day of January, from the cities and towns aforesaid, to meet said interest, sinking fund requirements, and cost, for such year, and deficiency, if any, and shall include the amount required from a city or town, in, and make it a part of, the sum to be paid by such city or town as its annual state tax, and the same shall be paid by the city or town into the treasury of the commonwealth at the time required for the payment, and as a part, of its state tax: *provided, however*, that the moneys to be paid into the treasury of the commonwealth each year, and the amount to be paid by the commonwealth and made a part of the annual state tax levy, shall be as specified in section ten of chapter four hundred and seven of the acts of the year

Apportionment to be assessed with state tax.
1893, 407, §§ 11, 12.
1894, 288, §§ 9, 10.

eighteen hundred and ninety-three, and in section eight of chapter two hundred and eighty-eight of the acts of the year eighteen hundred and ninety-four.

Repeal.

SECT. 4. R. Sections ten, eleven and twelve of chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, sections eight, nine and ten of chapter two hundred and eighty-eight of the acts of the year eighteen hundred and ninety-four, all acts in amendment of or in addition to said sections or either of them, and all other acts or parts of acts inconsistent with this act, are hereby repealed, and the treasurer of the commonwealth shall not hereafter require the payment of, and no city or town shall hereafter pay, any money into the treasury of the commonwealth under any determination or finding of any commission appointed under the provisions of said sections, or any of them.

SECT. 5. This act shall take effect upon its passage.

[Approved June 9, 1896.]

1897.—CHAPTER 121.

AN ACT TO FURTHER DEFINE THE AUTHORITY OF THE METROPOLITAN PARK COMMISSION.

Be it enacted, etc., as follows :

Provision for
bathing and
boating accom-
modations.

SECTION 1. The metropolitan park commission, created by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, may provide and maintain upon any land or reservations under its care, suitable accommodations for bathing and boating, and for the use of the same may establish rules and regulations, and make reasonable charges, and the cost thereof, to an amount not exceeding one hundred thousand dollars, shall be paid from that portion of the metropolitan parks loan reserved to sinking fund and other purposes by chapter five hundred and fifty of the acts of the year eighteen hundred and ninety-six.

Disposition of
certain
moneys.
Repealed by
St. 1901, c. 464,
§ 2.

SECT. 2. R. All sums of money hereafter collected or received by said commission, including sums received for rentals, sales, or use of property under its care, and all fines recovered for violations of law within the limits of the lands, roadways or boulevards under its care, shall be accounted for and paid to the treasurer and receiver general of the commonwealth, and shall be placed by him to the credit of and added to the funds provided by law for meeting the expenses of said commission, and may be expended by said commission in addition to any loans or appropriations authorized for park purposes.

Powers of
police.

SECT. 3. The police appointed or employed by said commission, in accordance with the provisions of chapter four hundred

and seven of the acts of the year eighteen hundred and ninety-three and chapter two hundred and eighty-eight of the acts of the year eighteen hundred and ninety-four and all acts in amendment thereof and in addition thereto, shall have within the metropolitan parks district all the powers of police officers and constables of cities and towns of this commonwealth, except the power of serving and executing civil process, and when on duty may carry such weapons as said commission shall authorize.

SECT. 4. All acts and parts of acts inconsistent herewith are hereby repealed. Repeal.

SECT. 5. This act shall take effect upon its passage.
[Approved March 5, 1897.]

1897.—CHAPTER 311.

AN ACT TO PROVIDE FOR THE INTEREST AND SINKING FUND REQUIREMENTS OF THE METROPOLITAN PARKS LOANS AND EXPENSES OF THE METROPOLITAN PARK COMMISSION.

Be it enacted, etc., as follows :

SECTION 1. The metropolitan park commission, created by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, for the purpose of carrying out the provisions of said act and of all acts in amendment thereof or in addition thereto, including chapters four hundred and eighty-three and five hundred and nine of the acts of the year eighteen hundred and ninety-four, chapter four hundred and fifty of the acts of the year eighteen hundred and ninety-five, and chapter five hundred and fifty of the acts of the year eighteen hundred and ninety-six, may expend the further sum of nine hundred thousand dollars in addition to all sums heretofore authorized to be expended by it; and to meet the expenditures incurred under the authority of this act the treasurer and receiver general shall issue a corresponding amount of scrip or certificates of indebtedness as an addition to the metropolitan parks loan. The sinking fund already established by law shall also be maintained for the purpose of extinguishing scrip, certificates or bonds issued under the authority of this act. Any premium realized on the sale of said scrip, certificates or bonds shall be applied to the payment of the interest on the loan hereby authorized, as it accrues. Said scrip, certificates or bonds shall be issued, and additions to said sinking funds so established shall be assessed and collected, in accordance with the provisions of sections nine, ten, eleven and twelve of said chapter four hundred and seven of the acts of the year eighteen

Metropolitan
Parks Loan.

Metropolitan
Parks Loan,
Series Two.

hundred and ninety-three, and the provisions of chapter two hundred and eighty-three of the acts of the year eighteen hundred and ninety-five and chapter five hundred and fifty of the acts of the year eighteen hundred and ninety-six.

SECT. 2. The said metropolitan park commission may, for the purposes of constructing roadways and boulevards under the authority of chapter two hundred and eighty-eight of the acts of the year eighteen hundred and ninety-four, and of any acts in amendment thereof or in addition thereto, including chapter five hundred and fifty of the acts of the year eighteen hundred and ninety-six, expend the further sum of one hundred thousand dollars in addition to all sums heretofore authorized to be expended by it for the purposes of constructing said roadways and boulevards; and to meet any expenditure under the authority of this act the treasurer and receiver general shall issue a corresponding amount of scrip or certificates of indebtedness or bonds, as an addition to the Metropolitan Parks Loan, Series Two. The sinking fund already established by law shall also be maintained for the purpose of extinguishing scrip, certificates or bonds issued under the authority of this act. Any premium realized on the sale of said scrip, certificates or bonds shall be applied to the payment of the interest on the loan hereby authorized, as it accrues. Said scrip, certificates of indebtedness or bonds shall be issued and said sinking fund assessed and collected in accordance with the provisions of said chapter two hundred and eighty-eight of the acts of the year eighteen hundred and ninety-four and chapter five hundred and fifty of the acts of the year eighteen hundred and ninety-six.

SECT. 3. This act shall take effect upon its passage.

[Approved April 23, 1897.]

1897.—CHAPTER 464.

AN ACT TO INCREASE THE AMOUNT OF MONEY TO BE PLACED
AT THE DISPOSAL OF THE METROPOLITAN PARK COMMISSION FOR GENERAL PURPOSES.

Be it enacted, etc., as follows:

Metropolitan
Parks Loan.

SECTION 1. The metropolitan park commission, created by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, for the purpose of carrying out the provisions of said act and of all acts in amendment thereof or in addition thereto, including chapters four hundred and eighty-three and five hundred and nine of the acts of the year eighteen hundred and ninety-four, and chapter four hundred and fifty of the acts of the year eighteen hundred and ninety-five, may expend the further sum of five hundred thousand dollars in addition to all sums heretofore authorized to be expended by it; and to meet expenditures incurred under authority of this

act the treasurer and receiver general shall issue a corresponding amount of scrip or certificates of indebtedness as an addition to the metropolitan parks loan, and shall add to the existing sinking fund heretofore authorized to provide for the payment of the same. Said scrip or certificates of indebtedness shall be issued and additions to said sinking fund so established shall be assessed and collected in accordance with the provisions of sections nine, ten, eleven and twelve of said chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, and the provisions of chapter two hundred and eighty-three of the acts of the year eighteen hundred and ninety-five and chapter five hundred and fifty of the acts of the year eighteen hundred and ninety-six.

SECT. 2. This act shall take effect upon its passage.

[Approved June 4, 1897.]

1897. — CHAPTER 521.

AN ACT TO INCREASE THE AMOUNT OF MONEY TO BE PLACED
AT THE DISPOSAL OF THE METROPOLITAN PARK COMMISSION FOR THE CONSTRUCTION OF ROADWAYS AND BOULEVARDS.

Be it enacted, etc., as follows :

SECTION 1. The metropolitan park commission, created by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, may, for the purpose of constructing roadways and boulevards under the authority of chapter two hundred and eighty-eight of the acts of the year eighteen hundred and ninety-four, and of any acts in amendment thereof or in addition thereto, including chapter five hundred and fifty of the acts of the year eighteen hundred and ninety-six, expend the further sum of one million dollars in addition to all sums hitherto authorized to be expended by it, for the purposes of constructing roadways and boulevards within and connecting with said reservations for parks, and for repairing or reconstructing such bridges as may be necessary to connect parts of such roadways or boulevards; and to meet any expenditure under the authority of this act the treasurer and receiver general shall issue a corresponding amount of scrip or certificates of indebtedness or bonds as an addition to the Metropolitan Parks Loan, Series Two. The sinking fund already established by law shall also be maintained for the purpose of extinguishing scrip, certificates or bonds issued under the authority of this act. Any premium realized on the sale of said scrip or certificates or bonds shall be applied to the payment of the interest on the loan hereby authorized, as it accrues. Said scrip or certificates of indebtedness or bonds

Metropolitan
Parks Loan,
Series Two.

shall be issued and said sinking fund assessed and collected in accordance with the provisions of said chapter two hundred and eighty-eight of the acts of the year eighteen hundred and ninety-four and chapter five hundred and fifty of the acts of the year eighteen hundred and ninety-six.

Work
regulated.

SECT. 2. All work authorized by this act shall be done in accordance with the provisions of section two of chapter four hundred and eighty-one of the acts of the year eighteen hundred and ninety-six.

SECT. 3. This act shall take effect upon its passage.

[Approved June 11, 1897.]

1898. — CHAPTER 455.

AN ACT TO DEFINE THE LIABILITY OF THE COMMONWEALTH
ARISING FROM DEFECTS IN STREETS ON CERTAIN LANDS
UNDER THE CARE AND CONTROL OF THE METROPOLITAN
PARK COMMISSION.

Be it enacted, etc., as follows:

St. 1898, c. 465,
§ 2, amended.

SECTION 1. Section two of chapter four hundred and sixty-five of the acts of the year eighteen hundred and ninety-six is hereby amended by adding at the end of said section the following words: — The liability arising out of any defect or want of repair in any street within the limits of such tracts of land as may be transferred for care and control under the provisions of this act to said metropolitan park commission, and the rights and remedies thereto appertaining, shall be in all respects the same as those provided in relation to the repairs of public ways and bridges by chapter fifty-two of the Public Statutes, and by acts in amendment thereof and in addition thereto. Actions for the enforcement of such rights and remedies shall be brought against the commissioners as such, but there shall never be any personal liability on the part of them or any of them to any person injured as aforesaid by reason of such defect or want of repair. Notices required to be served upon the defendant in proceedings hereunder shall be served upon any member of the board or upon its secretary. All sums recovered against said commission under the foregoing provisions, together with any costs of suit and counsel fees, expenses and interest, shall be taken and held to be expenses of care and maintenance, — so as to read as follows: — *Section 2.* Said commission is hereby authorized and empowered to transfer for care and control, including police protection, any lands or rights or easements or interest in land, although the same be a roadway or boulevard owned or controlled by it, to any city, town or county, or local board of a city or town within the metropolitan parks district, with the consent of such city, town, county or board, and upon

Transfer of
land for care
and control.

such terms and for such period as may be mutually agreed upon, and to enter into an agreement with any such city, town or county or board for the joint care and control or police protection of said land or boulevard, and also for laying out, constructing and maintaining streets or ways into or across any such land or boulevard; and any city, town or county, or any local board within the metropolitan parks district, is hereby authorized and empowered to transfer for care and control, including police protection, any land, rights, easements or interest in land in its control, although the same be already a part of a public street owned or controlled by it, to the metropolitan park commission for such period and upon such terms as may be mutually agreed upon, and to enter into an agreement with said commission for the joint care and control, including police protection, of said land or street. The liability arising out of any defect or want of repair in any street within the limits of such tracts of land as may be transferred for care and control under the provisions of this act to said metropolitan park commission, and the rights and remedies thereto appertaining, shall be in all respects the same as those provided in relation to the repairs of public ways and bridges by chapter fifty-two of the Public Statutes, and by acts in amendment thereof and in addition thereto. Actions for the enforcement of such rights and remedies shall be brought against the commissioners as such, but there shall never be any personal liability on the part of them or any of them to any person injured as aforesaid by reason of such defect or want of repair. Notices required to be served upon the defendant in proceedings hereunder shall be served upon any member of the board or upon its secretary. All sums recovered against said commission under the foregoing provisions, together with any costs of suit and counsel fees, expenses and interest, shall be taken and held to be expenses of care and maintenance.

SECT. 2. This act shall take effect upon its passage.

[*Approved May 24, 1898.*]

1898. — CHAPTER 463.

AN ACT TO PROVIDE FOR THE IMPROVEMENT OF THE BANKS OF RIVERS AND PONDS WITHIN THE METROPOLITAN PARKS DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. The board of metropolitan park commissioners, in addition to any and all powers heretofore given, is hereby authorized for the purpose of making the rivers and ponds within the metropolitan parks district more available as open spaces for recreation and exercise, to regulate the use of certain spaces along or near said rivers and ponds within said district, and to

Regulation and use of spaces along rivers and ponds, etc. 1893, 407, § 4.

care for and maintain the spaces so regulated; and for this purpose the said board is hereby authorized to take by eminent domain, or to acquire by agreement or otherwise, the right forever, or for such period of time as said board may deem expedient, to plant, care for, maintain or remove trees, shrubs and growth of any kind within said regulated spaces, and also and for the same purpose and for such periods of time as said board may deem expedient, to take or impose by eminent domain, or acquire the benefit of by agreement or otherwise, such restrictions upon such regulated spaces as said board may deem expedient: *provided, however*, that none of the rights above mentioned nor any restrictions shall be taken or imposed by right of eminent domain without the concurrence of a majority of the board, and without the concurrence of a majority of the board of park commissioners, if any, of the city or town in which the land lies out of which said rights are taken or upon which said restrictions are imposed. Nothing however in any of the foregoing provisions shall be construed to abridge or limit in any manner the powers heretofore given to said board to take or acquire land or rights in land in fee simple, even after rights may have been taken or restrictions imposed under the provisions of this act.

Damages.

SECT. 2. Said board shall estimate and determine as near as may be all damages sustained by any person or corporation by the exercise of the powers of eminent domain conferred by the provisions of this act, but any one aggrieved by such determination of the board may have such damages assessed by a jury of the superior court, in the same manner as is provided by law with respect to damages sustained by reason of the laying out of ways. If upon trial damages are increased beyond the award of the board the aggrieved party shall recover costs, otherwise such party shall pay costs, and costs shall be taxed as in civil cases; but no suit for such damages shall be brought after the expiration of two years from the date of the recording of the taking as required by the following section.

Record of description of land taken or restricted.

SECT. 3. Said board shall cause to be filed and recorded in the registry of deeds for the county in which the land lies out of which any rights may be taken or upon which restrictions may be imposed by eminent domain, and within sixty days from the date of such taking or the imposing of such restrictions, a description sufficiently accurate for the purpose of identification, of the land in regard to which the right of eminent domain is exercised, together with a statement of the rights taken or restrictions imposed, which description and statement shall be signed by the board or a majority thereof.

Enforcement of act.

SECT. 4. The supreme judicial court shall have jurisdiction in equity to enforce the provisions of this act.

SECT. 5. This act shall take effect upon its passage.

[*Approved May 24, 1898.*]

1898. — CHAPTER 473.

AN ACT RELATIVE TO BETTERMENT TAXES ASSESSED BY THE
METROPOLITAN PARK COMMISSION.*Be it enacted, etc., as follows :*

SECTION 1. In every case where a betterment tax has been or may hereafter be assessed upon real estate by the metropolitan park commission under the provisions of law authorizing said commission to assess betterments the treasurer and receiver general of the commonwealth may maintain an action of contract in his own name against the owner of said real estate at the date of the taking by reason of which said betterment accrued, for the amount of said tax, and the expenses of prosecuting any such action shall be paid out of the funds provided by law for meeting the expenses of said commission.

Actions for
collection of
betterment
taxes.

SECT. 2. All sums of money hereafter collected or received by the treasurer and receiver general in payment of betterment taxes assessed by the metropolitan park commission shall be placed by him to the credit of and added to the funds provided by law for meeting the expenses of said commission, and may be expended by said commission in addition to any loans or appropriations authorized for park purposes.

Disposition of
collection of
betterment
taxes.

SECT. 3. This act shall take effect upon its passage.

[Approved May 26, 1898.]

1898. — CHAPTER 530.

AN ACT TO INCREASE THE AMOUNT OF MONEY TO BE PLACED
AT THE DISPOSAL OF THE METROPOLITAN PARK COMMISSION FOR GENERAL PURPOSES.*Be it enacted, etc., as follows :*

SECTION 1. The metropolitan park commission, created by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, for the purpose of carrying out the provisions of said act and of all acts in amendment thereof or in addition thereto, including chapters four hundred and eighty-three and five hundred and nine of the acts of the year eighteen hundred and ninety-four, and chapter four hundred and fifty of the acts of the year eighteen hundred and ninety-five, may expend the further sum of one million dollars in addition to all sums heretofore authorized to be expended by it; and to meet expenditures incurred under authority of this act the treasurer and receiver general shall issue a corresponding amount of scrip or certificates of indebtedness as an addition to the Metropolitan Parks Loan, and shall add to the existing sinking fund

Metropolitan
Parks Loan.

heretofore authorized to provide for the payment of the same. Said scrip or certificates of indebtedness shall be issued and additions to said sinking fund so established shall be assessed and collected in accordance with the provisions of sections nine, ten, eleven and twelve of said chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, and the provisions of chapter two hundred and eighty-three of the acts of the year eighteen hundred and ninety-five and chapter five hundred and fifty of the acts of the year eighteen hundred and ninety-six.

SECT. 2. This act shall take effect upon its passage.

[Approved June 14, 1898.]

1898.—CHAPTER 531.

[Repealed by St. 1908, c. 465, § 16.]

AN ACT TO AUTHORIZE THE CONSTRUCTION OF A DAM
ACROSS THE CHARLES RIVER, BETWEEN THE CITIES OF
BOSTON AND CAMBRIDGE.

Be it enacted, etc., as follows :

Construction
of dam across
Charles river.

SECTION 1. **R.** The board of metropolitan park commissioners, constituted under the authority of chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, is hereby authorized and directed to construct and maintain a dam, with a suitable lock or locks, across the Charles river, from a point at or about the intersection of Saint Mary's street extended in the city of Boston with said river, and a point in Cambridge nearly opposite Saint Mary's street extended, and for this purpose may exercise, in addition to the powers herein conferred, all the powers conferred upon said board by said chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three and all acts in amendment thereof and in addition thereto. Said board is authorized to apply for and take all necessary steps to obtain the approval of the secretary of war or other proper authority of the United States for carrying out the purposes of this act. Each member of said board shall be paid his actual travelling expenses and all such other expenses as may be incurred by him in the performance of his duties under this act, and also any such compensation for services when absent from the commonwealth as shall be allowed by the governor and council.

Charles River
Improvement
Loan.

SECT. 2. **R.** To meet the expenses incurred under the provisions of this act the treasurer and receiver general shall, with the approval of the governor and council, issue scrip or certificates of debt in the name and behalf of the commonwealth and under its seal, to an amount not exceeding five hundred thousand dollars, for a term not exceeding forty years, such scrip

or certificates of debt to be issued at such times, within one year after the approval by the United States government of the building of said dam, as the treasurer and receiver general shall determine. Said scrip or certificates of debt shall be issued as registered bonds or with interest coupons attached, shall bear interest at a rate not exceeding four per cent. per annum, payable semi-annually on the first days of January and July in each year, shall be designated on their face as the Charles River Improvement Loan, shall be countersigned by the governor and shall be deemed a pledge of the faith and credit of the commonwealth; and the principal and interest shall be paid at the time specified therein in gold coin of the United States; and said scrip or certificates of debt shall be sold and disposed of at public auction or in such other mode, and at such times and prices, and in such amounts, and at such rates of interest, not exceeding the rate above specified, as the governor and council shall deem best. The treasurer and receiver general shall on issuing any of said scrip or certificates of debt establish a sinking fund and apportion an amount to be paid thereto each year sufficient with its accumulations to extinguish the debt at maturity. Any premium realized on the sale of said scrip or certificates of debt shall be applied to the payment of the interest on said loan as it accrues.

SECT. 3. R. The supreme judicial court sitting in equity shall, on the application of said board and after notice to the cities of Boston, Cambridge, Newton, and the town of Watertown, appoint three commissioners, who shall not be residents of said cities or town, who shall after due notice and hearing and in such manner as they shall deem best and equitable determine the proportion in which said cities and town, respectively, shall annually pay money into the treasury of the commonwealth for the term of five years next following the year of the first issue of said scrip or certificates of debt, to meet the interest and sinking fund requirements for each of said years as estimated by the treasurer of the commonwealth, and to meet the expenses of maintenance of said dam as estimated by said board and certified by said treasurer, and any deficiency in the amount previously paid in as found by said treasurer, and shall return their award into said court; and when said award shall have been accepted by said court the same shall be a final and conclusive adjudication of all matters herein referred to said commissioners, and shall be binding on all parties. Before the expiration of said term of five years, and every five years thereafter, three such commissioners shall again be appointed as aforesaid, with the same duties and powers with reference to the next succeeding term of five years.

Apportionment of interest, sinking fund requirements, etc.

SECT. 4. R. The amount of money required each year from each city and town hereinbefore named to meet the interest and sinking fund requirements and expenses aforesaid for each year, and deficiency, if any, shall be estimated by the treasurer of the commonwealth in accordance with the proportion determined as

Apportionment to be assessed with state tax.

aforesaid, and shall be included in and made a part of the sum charged to such city or town, and be assessed upon it in the apportionment and assessment of its annual state tax; and said treasurer shall in each year notify each city and town of the amount of such assessment, and the same shall be paid by the city or town into the treasury of the commonwealth at the time required for the payment and as a part of its state tax.

Enforcement
of act and com-
pensation of
commission-
ers.

SECT. 5. R. The supreme judicial court shall have jurisdiction in equity to enforce the provisions of this act, and shall fix and determine the compensation of all commissioners appointed by said court under the provisions hereof.

Approval of
plans by har-
bor and land
commission-
ers.

SECT. 6. R. No action shall be taken relative to the construction and maintenance of said dam, under the provisions of this act, until all plans therefor have been duly submitted to the board of harbor and land commissioners and received the approval of said board.

SECT. 7. This act shall take effect upon its passage.

[Approved June 14, 1898.]

1898. — CHAPTER 547.

AN ACT TO AUTHORIZE THE METROPOLITAN PARK COMMISSION TO CONSTRUCT A BRIDGE ACROSS THE SAUGUS RIVER.

Be it enacted, etc., as follows:

Construction
of bridge over
Saugus river.

SECTION 1. The metropolitan park commission, created by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, is hereby authorized to construct a bridge over the Saugus river from the Point of Pines, so-called, in Revere on the south, to the Lynn shore on the north, with suitable connections with the Revere Beach Reservation, as laid out by the said metropolitan park commission, and also with existing thoroughfares on the Lynn shore. Said commission is authorized to expend for said purpose the sum of one hundred thousand dollars; and to meet any expenditure under the authority of this act the treasurer and receiver general shall issue a corresponding amount of scrip or certificates of indebtedness or bonds as an addition to the Metropolitan Parks Loan, Series Two. The sinking fund already established by law shall also be maintained for the purpose of extinguishing scrip, certificates or bonds issued under the authority of this act. Any premium realized on the sale of said scrip, certificates or bonds shall be applied to the payment of the interest on the loan hereby authorized, as it accrues. Said scrip, certificates or bonds shall be issued and said sinking fund assessed and collected in accordance with the provisions of chapter two hundred and eighty-eight of the acts of the year eighteen hundred and

Metropolitan
Parks Loan,
Series Two.

ninety-four and chapter five hundred and fifty of the acts of the year eighteen hundred and ninety-six.

SECT. 2. No persons except citizens of this commonwealth shall be employed on the work authorized by this act.

Employees to be citizens.

SECT. 3. This act shall take effect upon its passage.

[Approved June 21, 1898.]

1899. — CHAPTER 142.

AN ACT TO ENABLE THE METROPOLITAN PARK COMMISSION TO RESTORE AND ENLARGE THE BATH HOUSE AND TO PROVIDE ADDITIONAL FACILITIES AT REVERE BEACH RESERVATION.

Be it enacted, etc., as follows :

SECTION 1. The metropolitan park commission is hereby authorized to expend the sum of one hundred and twenty-five thousand dollars for the purpose of restoring and enlarging the bath house and of providing additional facilities at Revere Beach Reservation, in addition to all sums heretofore authorized to be expended by it; and to meet the expenditures incurred under authority of this act the treasurer and receiver general shall issue a corresponding amount of scrip or certificates of indebtedness as an addition to the Metropolitan Parks Loan, and shall add to the existing sinking fund to provide for the payment of the same. Said scrip or certificates of indebtedness shall be issued and additions to said sinking fund shall be assessed and collected in accordance with the provisions of sections nine, ten, eleven and twelve of chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, and with the provisions of chapter two hundred and eighty-three of the acts of the year eighteen hundred and ninety-five and chapter five hundred and fifty of the acts of the year eighteen hundred and ninety-six.

Restoration and enlargement of bath-house at Revere beach reservation.

Metropolitan Parks Loan.

SECT. 2. This act shall take effect upon its passage.

[Approved March 11, 1899.]

1899. — CHAPTER 363.

AN ACT TO AUTHORIZE THE TOWN OF WINTHROP TO INCUR INDEBTEDNESS BEYOND THE LIMIT FIXED BY LAW, FOR THE PURPOSE OF CONSTRUCTING, IN CONJUNCTION WITH THE METROPOLITAN PARK COMMISSION, A SHORE ROAD.

Be it enacted, etc., as follows :

SECTION 1. The town of Winthrop, for the purposes of laying out and constructing, in conjunction with the metropolitan

Winthrop may exceed debt limit for certain purposes.

park commission, a shore road in said town between Great Head and Grover's cliff, and of securing the adjacent beach as a public reservation, may incur indebtedness beyond the limit fixed by law to an amount not exceeding fifty thousand dollars, and may issue bonds, notes or scrip therefor. Such bonds, notes or scrip shall be payable within thirty years from the date thereof and shall bear interest at a rate not exceeding five per cent. per annum.

Disposition of
excess of
debt limit.
1893, c. 407, §§ 10,
11.

SECT. 2. Said town is authorized to enter into agreements with said commission for carrying out the purposes above mentioned, and to that end is hereby authorized and empowered to pay over from time to time, as it may see fit, any portion or the whole of the amount which may be borrowed under the provisions of this act to the treasurer and receiver general of the commonwealth, to be placed by him to the credit of and added to the funds provided by law for meeting the expenses of the metropolitan park commission, and such sum or sums paid over as aforesaid may be expended by said commission in addition to any loans or appropriations authorized for park purposes.

Acceptance
of act.

SECT. 3. This act shall take effect when it is accepted by the said town at a meeting duly warned and held for that purpose.¹ [*Approved May 12, 1899.*]

1899. — CHAPTER 400.

AN ACT TO PROVIDE COMPENSATION FOR THE METROPOLITAN PARK COMMISSIONERS.

Be it enacted, etc., as follows :

St. 1893, c. 407,
§ 1, amended.

SECTION 1. Section one of chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three is hereby amended by striking out the last sentence and substituting the following:— The members of said board, or any of them, may receive for the year eighteen hundred and ninety-nine, such compensation for their services as the governor, with the advice and consent of the council, may authorize, and shall also be allowed their travelling and other expenses incurred in the discharge of their duties, and all sums so authorized and allowed shall be paid by the commonwealth and shall be a part of the expenses under this act, — so as to read as follows:—

Metropolitan
Park Commis-
sion.

Section 1. The governor, by and with the advice and consent of the council, shall appoint five persons, who shall constitute a board to be known as the Metropolitan Park Commission. The members of this board shall hold office respectively for the terms of one year, two years, three years, four years and five years, beginning with the first Monday in May in the year eighteen hundred and ninety-three, and annually thereafter the

¹ Accepted May 29, 1899.

governor shall appoint as aforesaid one such commissioner, to hold office for the term of five years, beginning with the first Monday in May in the year of his appointment; and if any vacancy occurs in said board by resignation or otherwise the governor shall in like manner appoint a commissioner for the residue of the term in which the vacancy occurs, and may also remove any commissioner. The members of said board, or any of them, may receive for the year eighteen hundred and ninety-nine, such compensation for their services as the governor, with the advice and consent of the council, may authorize, and shall also be allowed their travelling and other expenses incurred in the discharge of their duties, and all sums so authorized and allowed shall be paid by the commonwealth and shall be a part of the expenses under this act.

SECT. 2. This act shall take effect upon its passage.

[Approved May 25, 1899.]

1899. — CHAPTER 406.

AN ACT TO INCREASE THE AMOUNT OF MONEY TO BE PLACED AT THE DISPOSAL OF THE METROPOLITAN PARK COMMISSION FOR GENERAL PURPOSES.

Be it enacted, etc., as follows :

SECTION 1. The metropolitan park commission, created by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, for the purpose of carrying out the provisions of said act and of all acts in amendment thereof and in addition thereto, including chapters four hundred and eighty-three and five hundred and nine of the acts of the year eighteen hundred and ninety-four, and chapter four hundred and fifty of the acts of the year eighteen hundred and ninety-five, may expend an additional sum of three hundred thousand dollars.

Additional
expenditure
authorized.

SECT. 2. To meet the expenditure hereby authorized the treasurer and receiver general shall issue scrip or certificates of indebtedness to the said amount of three hundred thousand dollars, as an addition to the Metropolitan Parks Loan, and shall add to the existing sinking fund to provide for the payment of the same. Said scrip or certificates of indebtedness shall be issued and additions to said sinking fund shall be assessed and collected in accordance with the provisions of sections nine, ten, eleven and twelve of said chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three and in accordance with the provisions of chapter two hundred and eighty-three of the acts of the year eighteen hundred and ninety-five and of chapter five hundred and fifty of the acts of the year eighteen hundred and ninety-six.

Metropolitan
Parks Loan.

SECT. 3. This act shall take effect upon its passage.

[Approved May 25, 1899.]

1899. — CHAPTER 419.

AN ACT RELATIVE TO THE METROPOLITAN PARK COMMISSION.

Be it enacted, etc., as follows :

Apportionment of interest, sinking fund requirements, etc.
178 Mass. 213.
180 Mass. 471.

SECTION 1. In the year nineteen hundred and in every fifth year thereafter the supreme judicial court in equity, on application of the metropolitan park commission or of the attorney-general, or of any city or town of the metropolitan parks district by its attorney, and after such notice as the said court may order to each city and town of that district, shall appoint three commissioners, neither of whom shall be a resident of any city or town in said district, who shall, after such notice and hearing as they deem sufficient and in such manner as they deem just and equitable, determine and make award of the proportions in which each of the cities and towns of said district shall annually pay money into the treasury of the commonwealth, beginning with the first day of January of the year in which such commissioners are required to be appointed, until the first day of January of the year in which a new award is made hereunder, to provide the amount for that year as estimated by the treasurer of the commonwealth to meet the interest and sinking fund requirements of the appropriations and loans authorized by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, chapter two hundred and eighty-eight of the acts of the year eighteen hundred and ninety-four, chapter three hundred and five of the acts of the year eighteen hundred and ninety-five, and all acts in addition thereto and in amendment thereof, and the amount required to meet the expenses for that year of said board of metropolitan park commissioners, and of the care, maintenance and operation for that year of the parks, reservations, boulevards and other works acquired, cared for or controlled by said board under said acts as annually authorized by the general court, and the deficiency, if any, in the estimates and payments for the preceding year as found by said treasurer, and shall return their award thus determined into said court: *provided, however*, that the commissioners shall fix and return the proportion to be paid by the city of Boston for each year of the first of said terms at fifty per cent. Every such award when accepted by said court shall be a final and conclusive adjudication for the term for which it is made, of all matters referred to the commissioners, and shall be binding upon all parties.

Apportionment to be assessed with state tax.

SECT. 2. The treasurer shall in the year nineteen hundred and in each year thereafter estimate the several amounts required for that year from each city and town of said district, in accordance with said award, to provide the entire amount needed to meet the interest and sinking fund requirements of the appropriations and loans authorized by

said chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, and acts in addition thereto and in amendment thereof, and to meet the expenses for that year of said metropolitan park commission incurred under said acts, and of the care, maintenance and operation of the parks, reservations and works acquired, cared for and controlled by said board under said acts, and the deficiency in the estimates and payments for these purposes for the previous year; and the treasurer shall also in the same manner estimate the several amounts required for that year from each city and town of said district, to provide one half of the entire amount needed to meet the interest and sinking fund requirements of the appropriations and loans authorized by chapter two hundred and eighty-eight of the acts of the year eighteen hundred and ninety-four, and acts in addition thereto and in amendment thereof, and one half of the expenses for that year of said metropolitan park commission under said acts, and of the care, maintenance and operation of the roads, boulevards and other works acquired, cared for and controlled by said board under said acts, and one half of the deficiency in the estimates and payments under said acts for these purposes for the preceding year, and shall include the several amounts thus estimated to be needed each year from each city and town of said district in the sum to be paid by each as its state tax for that year, and shall charge the remaining one half of the entire amount required for that year for interest, sinking fund requirements and for expenses and deficiency, as aforesaid, under said chapter two hundred and eighty-eight of the acts of the year eighteen hundred and ninety-four to the commonwealth, and shall include the same in the annual state tax for that year; and the amounts thus required in each year of the several cities and towns of said district and of the commonwealth shall be paid by each into the treasury of the commonwealth at the time required for the payment and as a part of the state tax of each for that year.

SECT. 3. Chapter five hundred and fifty of the acts of the year eighteen hundred and ninety-six is hereby repealed.

SECT. 4. This act shall take effect on the first day of January in the year nineteen hundred. [*Approved May 25, 1899.*]

Repeal of
St. 1896, c. 550.

When to take
effect.

1899. — CHAPTER 428.

AN ACT TO INCREASE THE AMOUNT OF MONEY TO BE PLACED AT THE DISPOSAL OF THE METROPOLITAN PARK COMMISSION FOR THE CONSTRUCTION OF ROADWAYS AND BOULEVARDS.

Be it enacted, etc., as follows:

SECTION 1. The metropolitan park commission may, for the purpose of constructing roadways and boulevards under the authority of chapter two hundred and eighty-eight of the acts of

Expenditure
for construction
of boulevards, etc.,
authorized.

the year eighteen hundred and ninety-four, and of any acts in amendment thereof or in addition thereto, including chapter five hundred and fifty of the acts of the year eighteen hundred and ninety-six, expend an additional sum of five hundred thousand dollars, for the purpose of constructing roadways and boulevards within and connecting with said reservations for parks, and for repairing and constructing such bridges as may be necessary to connect parts of such roadways or boulevards.

Metropolitan
Parks Loan,
Series Two.

SECT. 2. To meet expenses incurred under the authority of this act the treasurer and receiver general shall issue scrip or certificates of indebtedness, or bonds, to the amount of five hundred thousand dollars, as an addition to the Metropolitan Parks Loan, Series Two. The sinking fund already established by law shall also be maintained for the purpose of extinguishing scrip, certificates or bonds issued under the authority of this act. Any premium realized on the sale of said scrip or certificates or bonds shall be applied to the payment of the interest on the loan hereby authorized, as it accrues. Said scrip or certificates of indebtedness or bonds shall be issued and said sinking fund assessed and collected in accordance with the provisions of said chapter two hundred and eighty-eight of the acts of the year eighteen hundred and ninety-four and of chapter five hundred and fifty of the acts of the year eighteen hundred and ninety-six.

Method of
work
regulated.
1894, 288, § 1.

SECT. 3. All work authorized by this act shall be done in accordance with the provisions of section two of chapter four hundred and eighty-one of the acts of the year eighteen hundred and ninety-six.

SECT. 4. This act shall take effect upon its passage.

[Approved May 27, 1899.]

1899. — CHAPTER 464.

AN ACT TO AUTHORIZE THE METROPOLITAN PARK COMMISSION TO TAKE, CONTROL AND MANAGE NANTASKET BEACH AND ADJACENT LANDS AND WATERS.

Be it enacted, etc., as follows:

Taking in fee,
etc., of portion
of Nantasket
beach.

SECTION 1. The metropolitan park commission, without the concurrence of any other board or commissioners, may take in fee or otherwise, by purchase, gift, devise or eminent domain, in the name and for the benefit of the commonwealth, as a public reservation for exercise and recreation, a portion of Nantasket Beach, so-called, in the town of Hull, not exceeding fifty-six hundred feet in length, and adjacent lands, waters and rights therein, including Straits pond, so-called; but no land held or occupied for railroad purposes shall be taken by right of eminent domain. Said commission shall have the same powers of management and control of the property thus acquired as is conferred on it by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three and the acts in

amendment thereof in respect to other lands hitherto acquired by it. Said commission may expend a sum not exceeding six hundred thousand dollars in carrying out the provisions of this act.

SECT. 2. The damages sustained by any person or corporation by reason of any taking hereunder shall be estimated, determined, assessed and recovered in the manner provided in section seven of said chapter four hundred and seven. Damages.

SECT. 3. Said commission may erect such new buildings as it may deem necessary on the property at any time held or controlled by it under the provisions of this act, and may repair, maintain, and, at its discretion, lease the same or any buildings on said property, with so much land as may be needed for their proper use and enjoyment. No licenses shall be granted for the sale of intoxicating liquor in any buildings or place within four hundred feet of that portion of Nantasket Beach taken under the provisions of this act. Erection and lease of buildings, etc.

SECT. 4. To meet any expenditure made under the authority of this act the treasurer and receiver general shall issue scrip or certificates of indebtedness or bonds as an addition to the Metropolitan Parks Loan. The sinking fund already established by law shall also be maintained for the purpose of extinguishing scrip, certificates or bonds issued under the authority of this act. Any premium realized on the sale of said scrip, certificates or bonds shall be applied to the payment of the interest on the loan hereby authorized, as it accrues. Said scrip, certificates or bonds shall be issued and said sinking fund assessed and collected in accordance with the provisions of chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, chapter two hundred and eighty-three of the acts of the year eighteen hundred and ninety-five, and chapter five hundred and fifty of the acts of the year eighteen hundred and ninety-six: *provided, however*, that for the purpose of meeting the sinking fund and interest requirements for the loan authorized by this act, and to provide for the care and maintenance of the reservation taken under this act, the town of Cohasset shall be deemed and treated as a part of the metropolitan parks district, in the same manner and to the same extent as the cities and towns named in section three of chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three; and the commissioners appointed by the supreme judicial court to fix the proportion in which the cities and towns of the district shall annually pay into the treasury of the commonwealth to meet said sinking fund and interest requirements and care and cost of maintenance shall in like manner determine the proportion to be paid by said town of Cohasset; and the treasurer of the commonwealth shall annually estimate the amount required for that purpose in accordance with the proportion determined as aforesaid, and shall each year include the same as a part of the state tax of said town of Cohasset. Metropolitan Parks Loan.

SECT. 5. This act shall take effect upon its passage.

[Approved June 2, 1899.]

1900.—CHAPTER 242.

AN ACT RELATIVE TO THE LAYING OF DRAINS AND SEWERS
IN OR ACROSS LANDS CONTROLLED BY THE METROPOLITAN
PARK COMMISSION.*Be it enacted, etc., as follows :*

Locations for
sewers and
drains across
ways and
boulevards.

SECTION 1. The metropolitan park commission is hereby authorized to grant to cities and towns locations for common sewers and drains in and across ways and boulevards constructed by the commission on lands taken or acquired for the commonwealth by the commission, and in and through lands taken or acquired by the commission for the commonwealth or transferred to the commission for care and control. Whenever a drain or sewer is laid in locations so granted by the commission to a city or town the board of city or town officers respectively authorized to levy and collect assessments for the laying of drains and sewers in such city or town, shall have the same power to levy and collect assessments for drains and sewers laid in said ways, boulevards or lands as is given to them by law in the case of drains and sewers laid in the public ways of such city or town : *provided, however*, that no such assessment shall be levied upon any lands belonging to the commonwealth.

SECT. 2. This act shall take effect upon its passage.

[Approved April 18, 1900.]

1900.—CHAPTER 340.

AN ACT TO AUTHORIZE THE METROPOLITAN PARK COMMISSION TO MAKE RULES AND REGULATIONS TO GOVERN THE PUBLIC USE OF THE CHARLES, NEPONSET AND MYSTIC RIVERS, AND OF PONDS AND OTHER WATERS ALONG WHICH IT HOLDS ABUTTING LANDS FOR PUBLIC OPEN SPACES.

Be it enacted, etc., as follows :

Rules and regulations governing use of certain rivers and ponds.
1893, 407, §§ 2, 4.
1896, 463, § 1.

SECTION 1. The metropolitan park commission may from time to time make rules and regulations to govern the public use of the Charles river, the Neponset river, and the Mystic river, within the metropolitan parks district, and of the ponds and other waters along which it holds abutting lands for public open spaces in said district, and for breaches thereof may affix penalties not exceeding twenty dollars for one offence, to be imposed by any court of competent jurisdiction ; and in general may do all acts needful for the proper execution of the powers and duties granted to and imposed upon said board by this act : *provided*, that any rule or regulation affecting waters used for water supply purposes shall not take effect as to such waters

until approved in writing by the water board or other officers of the state, district, city or town having control and charge of the same.

SECT. 2. Nothing in this act shall affect the rights of any city or town relating to its water supply, or the water rights of any person or corporation, whether a mill owner or otherwise. Certain rights not affected.

SECT. 3. This act shall take effect upon its passage.

[Approved May 23, 1900.]

1900. — CHAPTER 393.

AN ACT RELATIVE TO THE COMPENSATION OF THE METROPOLITAN PARK COMMISSIONERS.

Be it enacted, etc., as follows:

SECTION 1. Section one of chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, as amended by section one of chapter four hundred of the acts of the year eighteen hundred and ninety-nine, is hereby amended by striking out the words "eighteen hundred and ninety-nine", in the sixteenth and seventeenth lines, and inserting in place thereof the words:—nineteen hundred,—so as to read as follows:—*Section 1.* The governor, by and with the advice and consent of the council, shall appoint five persons, who shall constitute a board to be known as the Metropolitan Park Commission. The members of this board shall hold office respectively for the terms of one year, two years, three years, four years and five years, beginning with the first Monday in May in the year eighteen hundred and ninety-three, and annually thereafter the governor shall appoint as aforesaid one such commissioner, to hold office for the term of five years, beginning with the first Monday in May in the year of his appointment; and if any vacancy occurs in said board by resignation or otherwise the governor shall in like manner appoint a commissioner for the residue of the term in which the vacancy occurs, and may also remove any commissioner. The members of said board, or any of them, may receive for the year nineteen hundred such compensation for their services as the governor, with the advice and consent of the council, may authorize, and shall also be allowed their travelling and other expenses incurred in the discharge of their duties, and all sums so authorized and allowed shall be paid by the commonwealth and shall be a part of the expenses under this act. St. 1898, c. 407, § 1, amended.

Metropolitan Park Commission.

SECT. 2. This act shall take effect upon its passage.

[Approved June 25, 1900.]

1900. — CHAPTER 413.

AN ACT TO AUTHORIZE THE BOARD OF METROPOLITAN PARK COMMISSIONERS TO GRANT LOCATIONS TO STREET RAILWAY COMPANIES.

Be it enacted, etc., as follows:

Locations to street railways authorized.

SECTION 1. The board of metropolitan park commissioners shall have authority to grant locations, as provided herein, to street railways within the roads, boulevards, parks and reservations in its care and control.

Hearings on petitions for locations.

SECT. 2. Said board, upon petition of the directors of a street railway company, or of a majority thereof, for such location, shall give notice to all parties interested of the time and place at which the board will give a hearing upon such petition, at least fourteen days before the hearing, by publication in one or more newspapers published in each city or town in which the location petitioned for would lie, and if none such is published then by publication in one or more newspapers published in each county in which the location petitioned for would lie; and after hearing, if in the opinion of the board public convenience and necessity so require, it may grant such location, or any part thereof, upon such terms, conditions and obligations, and for such compensation, as the public interest and a due regard for the rights of the commonwealth may require: *provided*, that nothing herein contained shall authorize the said board to grant a location for poles and overhead wires in any road, boulevard, park or parkway, without the approval of the governor and council. Such locations shall be void unless accepted in writing by the directors of such railroad company, or by a majority thereof, within thirty days after receiving notice thereof.

Alteration, extension or revocation of locations.

SECT. 3. Said board may by order alter, extend or revoke any location granted by it whenever in its opinion the public interest or the rights of the commonwealth so require: *provided, however*, that before so doing notice and hearing shall be given to the company and all persons interested, as provided in section two of this act; and *provided, further*, that any railroad company or any persons interested in any such order may appeal therefrom to the governor and council, within fourteen days after the filing of a copy of such order as hereinafter provided.

Record of orders granting locations or revocations.

SECT. 4. Said board, within fourteen days after making any order which operates to permit a use or location hereunder to any street railway, or an extension, alteration or revocation of a use or location previously granted, shall deposit a copy of such order in the office of the clerk of the city or town within which the location or use is permitted, altered, extended or revoked, and the clerk of that city or town shall receive and record the same.

SECT. 5. The share of the tax paid by any street railway company operating hereunder, into the treasury of the commonwealth, which would under other provisions of law be apportioned to the city or town within which its tracks laid hereunder are situated, shall be apportioned to the commonwealth and credited by the treasurer to the sinking fund of the loan to which the expenditure for the road, boulevard, park or reservation in which the tracks are located was charged.

Apportionment of tax paid by street railways.

SECT. 6. All street railway companies operating hereunder shall remain subject to the duties and liabilities imposed by other provisions of law not inconsistent herewith, and shall have the powers, duties and rights herein authorized, all of which shall be in addition to and in amendment of any charter or special provision of law or of the general laws under which they are organized.

Duties and liabilities of street railways.

SECT. 7. This act shall take effect upon its passage.

[Approved June 27, 1900.]

1900. — CHAPTER 421.

AN ACT TO TRANSFER THE CARE, CUSTODY AND CONTROL OF PARTS OF NANTASKET AVENUE AND OTHER PUBLIC WAYS IN THE TOWN OF HULL TO THE METROPOLITAN PARK COMMISSION.

Be it enacted, etc., as follows :

SECTION 1. The metropolitan park commission shall have exclusive care, custody and control, including police protection, of that part of County road known as Nantasket avenue, in the town of Hull, and of other public ways in said town which abut upon the lands already acquired by the commonwealth through said commission for the Nantasket beach reservation, and shall have the same power to make and enforce reasonable rules and regulations for the use of said ways as it now has with respect to the reservations of the metropolitan park system; but nothing in this act shall be deemed to permit the erection of a fence between the land of private citizens and the ocean front; and nothing herein shall limit the right of the inhabitants of Hull and the general public to enter upon and pass over and use said ways as public highways.

Care and control of certain public ways in Hull regulated.

SECT. 2. Nothing herein shall affect the rights of said town to lay and maintain wires, water and gas pipes and mains in said highways, and to erect, maintain and operate hydrants, and to erect and maintain therein poles for electric lights or cars, and to string wires thereon, nor its rights to grant or revoke locations in said highways to street railway companies; and nothing herein shall be deemed to affect the location of the Hull Street Railway Company in the above mentioned part of said County road.

Certain rights not affected.

Liability for
defects in
ways.

SECT. 3. The liability arising out of any defects in said ways or parts of ways, and the proceedings for enforcement thereof, shall be the same as are provided by chapter two hundred and eighty-eight of the acts of the year eighteen hundred and ninety-four.

SECT. 4. This act shall take effect upon its passage.

[Approved June 28, 1900.]

1900. — CHAPTER 443.

AN ACT TO REQUIRE THE METROPOLITAN PARK COMMISSION TO REBUILD THE BRIDGE OVER THE NEPONSET RIVER BETWEEN BLUE HILLS PARKWAY IN THE TOWN OF MILTON AND MATTAPAN SQUARE IN THE CITY OF BOSTON.

Be it enacted, etc., as follows :

Connection of
Blue Hills
parkway with
Blue Hill
avenue.
1894, 288, § 1.

SECTION 1. The metropolitan park commission, for the purpose of connecting the boulevard known as Blue Hills parkway with Blue Hill avenue in that part of Boston known as Mattapan, and of acquiring and reconstructing the present Mattapan bridge over the Neponset river, and maintaining the new bridge, is hereby further authorized to the full extent of the commonwealth's power of eminent domain and in addition to all other provisions of law it enabling, to take and acquire in the name and for the benefit of the commonwealth by the exercise hereunder of any of the powers conferred by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, by chapter two hundred and eighty-eight of the acts of the year eighteen hundred and ninety-four, and by acts in addition to and in amendment of said acts, all the right, title and interest of the public or of any corporation or individual in, to or concerning land or rights in land, including so much as it may deem necessary of the bed and waters of the Neponset river and of the location of the railroad company near by, known as the Old Colony Railroad Company, leased to the New York, New Haven and Hartford Railroad Company, or however else it may be designated, and the present bridge and rights therein between said Blue Hills parkway, within the town of Milton, and said Blue Hill avenue in the city of Boston: *provided, however*, that said board shall not interfere with the operation of said railroad company during a period of six months from the time of the taking or the acquisition of any part thereof.

New bridge
authorized.

SECT. 2. Said board may remove the present bridges and other structures over said river or any branch thereof between the part of said parkway already constructed and said avenue, and may build and maintain in place thereof as a part of said parkway such suitable bridges or other structures as it may deem best, and may keep the same in repair and establish such

reasonable rules and regulations for the use thereof as it may from time to time deem necessary.

SECT. 3. If any part of the present location and property of any railroad company is taken hereunder said railroad company, for the purpose of carrying out the purposes of this act and all acts in amendment thereof and in addition thereto, is hereby authorized, in accordance with the provisions of chapter one hundred and twelve of the Public Statutes and of all other general laws relating to the fixing of the route of railroads, to the laying out of the same, and to the taking of lands and payment of damages therefor, to take and acquire a new location and necessary land and rights in land within the city of Boston and not a part of the lands taken or acquired by said commission or by the city as an open space, boulevard or public street, and also to construct, maintain and operate a new line of railroad in place of that taken or acquired as aforesaid.

Railroad company may acquire new location.

SECT. 4. The commonwealth shall compensate such railroad company for all damages sustained and expenses incurred by it by reason of any acts done under authority of this act, the same to be determined by agreement between said company and said board, and in case of disagreement, then to be determined by a commission of three disinterested persons to be appointed by the justices of the supreme judicial court or by a jury in the superior court for the county of Suffolk, and in either case upon petition of any interested party.

Compensation of railroad company for damages.

SECT. 5. Said park commission shall have the same power to determine the value of and to assess upon real estate the amount of betterments accruing to said real estate by reason of any taking by it hereunder which is conferred upon it in regard to takings under the acts aforesaid.

Assessment of betterments.

SECT. 6. To meet expenses incurred under the authority of this act the treasurer and receiver general shall issue scrip or certificates of indebtedness or bonds, to the amount of seventy-five thousand dollars in addition to the Metropolitan Parks Loan, Series Two. The sinking fund already established by law shall also be maintained for the purpose of extinguishing scrip, certificates or bonds issued under the authority of this act. Any premium realized on the sale of such scrip or certificates or bonds shall be applied to the payment of the interest on the loan hereby authorized as it accrues. Said scrip or certificates of indebtedness or bonds shall be issued and said sinking fund assessed and collected in accordance with the provisions of chapter two hundred and eighty-eight of the acts of the year eighteen hundred and ninety-four and of chapter four hundred and nineteen of the acts of the year eighteen hundred and ninety-nine.

Metropolitan Parks Loan, Series Two.

SECT. 7. This act shall take effect upon its passage.

[Approved July 10, 1900.]

1900. — CHAPTER 445.

AN ACT TO AUTHORIZE THE COMPLETION OF A PARKWAY
IN THE TOWN OF REVERE AND THE CITIES OF CHELSEA
AND EVERETT.*Be it enacted, etc., as follows :*Grading and
completion of
certain boulevards author-
ized.

SECTION 1. The metropolitan park commission is hereby authorized to grade and complete the roadway and boulevard within and connecting with the reservation at Crescent Beach, through the town of Revere and the cities of Chelsea and Everett, to Broadway in the city of Everett.

Metropolitan
Parks Loan,
Series Two.

SECT. 2. To meet any expenditures under the authority of this act the treasurer and receiver general shall issue scrip or certificates of indebtedness or bonds, as an addition to the Metropolitan Parks Loan, Series Two, to an amount not exceeding two hundred thousand dollars. The sinking fund already established by law shall also be maintained for the purpose of extinguishing scrip, certificates or bonds issued under the authority of this act. Any premium realized on the sale of such scrip, certificates or bonds, shall be applied to the payment of the interest on the loan hereby authorized as it accrues. Said scrip, certificates or bonds, shall be issued, and said sinking fund assessed and collected, in accordance with the provisions of chapter two hundred and eighty-eight of the acts of the year eighteen hundred and ninety-four and of acts in amendment thereof.

Employees to
be citizens.

SECT. 3. No persons except citizens of this commonwealth shall be employed on the work authorized by this act.

SECT. 4. This act shall take effect upon its passage.

[Approved July 10, 1900.]

1900. — CHAPTER 461.

AN ACT TO AUTHORIZE AND DIRECT THE METROPOLITAN
PARK COMMISSION TO INVESTIGATE THE ADVISABILITY
OF REGULATING THE FLOW AND FLUCTUATIONS OF THE
CHARLES RIVER ABOVE THE DAM AT WATERTOWN.*Be it enacted, etc., as follows :*Investigation
of advisability
of regulating
flow of part of
Charles river.

SECTION 1. The metropolitan park commission is hereby authorized and directed to investigate the advisability of regulating the flow and fluctuations of the Charles river above the dam at Watertown, and the possibility of entering into agreements for that purpose with any cities, towns, corporations or individuals having the right to withdraw the waters of said river or to interfere with or regulate its passage by dams or other structures, and may negotiate with any cities, towns, corpora-

tions or individuals to pay a part of the cost of regulating the flow and fluctuations of the river; and any sums of money contributed by such cities, towns, corporations or individuals for that purpose shall be paid to the treasurer and receiver general of the commonwealth, to be placed by him to the credit of and added to the funds provided by law for meeting the expense of the metropolitan park commission, and such sum or sums paid over as aforesaid may be expended by said commission, in addition to any loans or appropriations authorized for park purposes. Said commission shall report its recommendations, together with plans and an estimate of the cost of carrying out the same, to the next general court. The expense of said investigation shall be charged to the Metropolitan Parks Loan.

SECT. 2. Pending the action of the general court said commission, for the preservation of the health of the community and the pleasure and health of the boating interests on the river between the Waltham dam and Newton Lower Falls, may expend for regulating the flow and fluctuations of that part of the river such portion as may be necessary of the moneys heretofore appropriated and authorized to be expended by that commission by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three and acts in addition thereto or in amendment thereof.

Regulation of
flow.

SECT. 3. This act shall take effect upon its passage.

[Approved July 16, 1900.]

1900.—CHAPTER 465.

AN ACT TO AUTHORIZE THE METROPOLITAN PARK COMMISSION TO IMPROVE THE BANKS OF THE CHARLES RIVER.

Be it enacted, etc., as follows:

SECTION 1. The metropolitan park commission is hereby authorized, under the provisions of chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three and of acts in addition thereto and in amendment thereof, to enter into agreements with the town of Watertown and the United States government for dredging the bed and improving the banks of the Charles river, and any sums of money contributed by said town or by the United States government for this purpose shall be paid to the treasurer and receiver general of the commonwealth, to be placed by him to the credit of and added to the funds provided by law for meeting the expenses of the metropolitan park commission; and such sums of money may be expended by said commission in addition to any loans or appropriations authorized for park purposes; and for the carrying out of the provisions of this act said commission is hereby authorized to expend the further sum of fifty thousand dollars, in addition to the sums heretofore authorized.

Dredging and
improvement
of Charles
river.

Metropolitan
Parks Loan.

SECT. 2. To meet expenses incurred under authority of this act the treasurer and receiver general shall issue scrip, certificates of indebtedness or bonds, to the amount of fifty thousand dollars, as an addition to the Metropolitan Parks Loan. The sinking fund already established by law shall also be maintained for the purpose of extinguishing such scrip, certificates or bonds; and any premium realized on the sale thereof shall be applied to the payment of the interest on the loan hereby authorized, as it accrues. Such scrip, certificates of indebtedness or bonds shall be issued and said sinking fund assessed and collected in accordance with the provisions of said chapter four hundred and seven and acts in amendment thereof and in addition thereto, including chapter four hundred and nineteen of the acts of the year eighteen hundred and ninety-nine.

SECT. 3. This act shall take effect upon its passage.

[Approved July 16, 1900.]

1900. — CHAPTER 467.

AN ACT TO AUTHORIZE AND DIRECT THE METROPOLITAN PARK COMMISSION TO ACQUIRE FULLER'S WHARF IN THE BRIGHTON DISTRICT OF THE CITY OF BOSTON AS A PART OF THE CHARLES RIVER RESERVATION.

Be it enacted, etc., as follows:

Acquisition of
Fuller's wharf
in Brighton.

SECTION 1. The metropolitan park commission is hereby authorized and directed to acquire by purchase or by eminent domain Fuller's wharf, on Western avenue in the Brighton district of the city of Boston, adjacent to Western avenue bridge across the Charles river, together with all rights in said river appurtenant thereto, as a part of the Charles river reservation.

Metropolitan
Parks Loan.

SECT. 2. To meet the expenses incurred under the authority of this act the treasurer and receiver general shall issue scrip, certificates of indebtedness or bonds, to the amount of thirty thousand dollars, as an addition to the Metropolitan Parks Loan. The sinking fund already established by law shall also be maintained for the purpose of extinguishing scrip, certificates or bonds issued under the authority of this act. Any premium realized on the sale of said scrip or certificates or bonds shall be applied to the payment of the interest on the loan hereby authorized, as it accrues. Said scrip, certificates of indebtedness or bonds shall be issued and the said sinking fund assessed and collected in accordance with the provisions of chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three and acts in addition thereto and in amendment thereof, including chapter four hundred and nineteen of the acts of the year eighteen hundred and ninety-nine.

SECT. 3. This act shall take effect upon its passage.

[Approved July 17, 1900.]

1901.—CHAPTER 93.

AN ACT RELATIVE TO RULES AND REGULATIONS MADE BY THE
METROPOLITAN PARK COMMISSION.*Be it enacted, etc., as follows :*

SECTION 1. Section seven of chapter four hundred and fifty of the acts of the year eighteen hundred and ninety-five is hereby amended by striking out the whole of said section and inserting in place thereof the following:—*Section 7.* Said commission shall cause the rules and regulations made by it from time to time to be posted in the reservation or parkway to which they apply, and shall also cause the same to be published at least three times in one or more newspapers published in the county within which said reservation or parkway is in whole or in part situated, and such posting and publication shall be sufficient notice to all persons. The sworn certificate of any member of the commission or of its secretary that such rules and regulations have been posted and published as herein provided shall be prima facie evidence thereof. A copy of such rules and regulations, attested by any member of the commission or by its secretary, shall be prima facie evidence that said rules and regulations have been made by the commission as provided by law.

St. 1895, c. 440,
§ 7, amended.Publication of
rules and
regulations.

SECT. 2. This act shall take effect upon its passage.

[Approved February 28, 1901.]

1901.—CHAPTER 146.

AN ACT RELATIVE TO THE COMPENSATION OF THE METRO-
POLITAN PARK COMMISSIONERS.*Be it enacted, etc., as follows :*

SECTION 1. Section one of chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, as amended by section one of chapter four hundred of the acts of the year eighteen hundred and ninety-nine, and by section one of chapter three hundred and ninety-three of the acts of the year nineteen hundred, is hereby further amended by striking out the words "nineteen hundred", in the seventeenth line, and inserting in place thereof the words:—*nineteen hundred and one*,—so as to read as follows:—*Section 1.* The governor, by and with the advice and consent of the council, shall appoint five persons, who shall constitute a board to be known as the Metropolitan Park Commission. The members of this board shall hold office respectively for the terms of one year, two years, three years, four years and five years, beginning with the first Monday in May in the year eighteen hundred and ninety-

St. 1893, c. 407
§ 1, amended.Metropolitan
Park Commis-
sion.

three, and annually thereafter the governor shall appoint as aforesaid one such commissioner, to hold office for the term of five years, beginning with the first Monday in May in the year of his appointment; and if any vacancy occurs in said board by resignation or otherwise the governor shall in like manner appoint a commissioner for the residue of the term in which the vacancy occurs, and may also remove any commissioner. The members of said board, or any of them, may receive for the year nineteen hundred and one, such compensation for their services as the governor, with the advice and consent of the council, may authorize, and shall also be allowed their travelling and other expenses incurred in the discharge of their duties, and all sums so authorized and allowed shall be paid by the commonwealth and shall be a part of the expenses under this act.

SECT. 2. This act shall take effect upon its passage.

[Approved March 13, 1901.]

1901.—CHAPTER 380.

AN ACT TO AUTHORIZE CERTAIN ADVANCES OF MONEY TO BE MADE TO THE SECRETARY OF THE METROPOLITAN PARK COMMISSION OR TO SUCH PERSON AS IT MAY DESIGNATE, FOR PAYMENT OF PAY ROLLS AND OTHER ACCOUNTS.

Be it enacted, etc., as follows:

St. 1896, c. 450,
§ 6, amended.

Money ad-
vances for pay-
ment upon pay-
rolls and other
accounts.

SECTION 1. Section six of chapter four hundred and fifty of the acts of the year eighteen hundred and ninety-five is hereby amended by striking out the whole of said section and inserting in place thereof the following:—*Section 6.* The secretary of the metropolitan park commission, or such other person as said commission may designate, may have advanced to him from the Metropolitan Parks Loan and from appropriations made by the general court from time to time to meet the expenses of the care and maintenance of the reservations and parkways of the metropolitan parks system, such sums, not exceeding ten thousand dollars at any one time, as the auditor may certify to be necessary to enable said commission to make direct payment upon its pay rolls and other accounts. The person so designated by said commission shall give a bond with sufficient sureties, to be approved by the auditor of the commonwealth, in the sum of ten thousand dollars. As soon as may be after expending such advance, and in any case within thirty days from its receipt, the person who has received the money from the commonwealth under the provisions of this act shall file with the auditor a statement in detail of the sums expended subsequent to the previous accounting, approved by the board, if any, authorized to supervise such expenditure, and,

where it is practicable to obtain them, accompanied by receipts or other like vouchers of the persons to whom the payments have been made.

SECT. 2. This act shall take effect upon its passage.

[Approved May 14, 1901.]

1901.—CHAPTER 445.

AN ACT TO INCREASE THE AMOUNT OF MONEY TO BE PLACED AT THE DISPOSAL OF THE METROPOLITAN PARK COMMISSION FOR GENERAL PURPOSES.

Be it enacted, etc., as follows :

SECTION 1. The metropolitan park commission, created by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, for the purpose of carrying out the provisions of that act and of all acts in amendment thereof and in addition thereto, may expend an additional sum of four hundred and fifty thousand dollars.

Additional
expenditure
authorized.

SECT. 2. To meet expenditures made under authority of this act the treasurer and receiver general, with the approval of the governor and council, shall issue scrip or certificates of indebtedness, bearing interest at a rate not exceeding four per cent. per annum, to the said amount of four hundred and fifty thousand dollars, as an addition to the Metropolitan Parks Loan, at such times and in such sums as the metropolitan park commission shall certify to him to be necessary to meet the liabilities incurred by said commission under the acts aforesaid, and shall add to the existing sinking fund to provide for the payment of the same. Such scrip or certificates of indebtedness shall be issued and additions to said sinking fund shall be assessed and collected in accordance with the provisions of sections nine, ten, eleven and twelve of said chapter four hundred and seven, and in accordance with the provisions of chapter two hundred and eighty-three of the acts of the year eighteen hundred and ninety-five and of chapter four hundred and nineteen of the acts of the year eighteen hundred and ninety-nine.

Metropolitan
Parks Loan.

SECT. 3. This act shall take effect upon its passage.

[Approved May 29, 1901.]

1901.—CHAPTER 454.

AN ACT TO PROVIDE FOR THE INTEREST AND SINKING FUND REQUIREMENTS OF THE METROPOLITAN PARKS LOANS AND FOR THE CARE AND MAINTENANCE OF RESERVATIONS AND PARKWAYS BY THE METROPOLITAN PARK COMMISSION.

Be it enacted, etc., as follows:

Loan to meet interest and sinking fund requirements, cost of care and maintenance of reservations and parkways authorized.

SECTION 1. To meet the interest and sinking fund requirements of the metropolitan parks loans, and to provide for the care and maintenance of reservations and parkways under the charge of the metropolitan park commission, for the years nineteen hundred and nineteen hundred and one, in anticipation of the assessments to be collected from the cities and towns of the metropolitan parks district, the treasurer and receiver general is hereby authorized to borrow temporarily, with the approval of the governor and council, from time to time, such sums of money as may be necessary, for a period not exceeding two years, at such rates of interest not exceeding four per cent. per annum, as may be for the best interests of the commonwealth.

SECT. 2. This act shall take effect upon its passage.

[Approved June 5, 1901.]

1901.—CHAPTER 456.

AN ACT TO INCREASE THE AMOUNT OF MONEY TO BE PLACED AT THE DISPOSAL OF THE METROPOLITAN PARK COMMISSION FOR NANTASKET BEACH.

Be it enacted, etc., as follows:

Additional expenditure authorized.

SECTION 1. The metropolitan park commission, created by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, for the purpose of carrying out the provisions of chapter four hundred and sixty-four of the acts of the year eighteen hundred and ninety-nine, may expend an additional sum of one hundred thousand dollars.

Metropolitan Parks Loan.

SECT. 2. To meet any expenditures made under the authority of this act the treasurer and receiver general, with the approval of the governor and council, shall issue scrip or certificates of indebtedness, to bear interest at a rate not exceeding four per cent. per annum, to the said amount of one hundred thousand dollars, as an addition to the Metropolitan Parks Loan, at such times and in such sums as the metropolitan park commission shall certify to him to be necessary and required to meet the liabilities incurred by said commission under said chapters four hundred and seven and four hundred and sixty-

four, and acts in amendment thereof and in addition thereto. The sinking fund already established by law shall also be maintained for the purpose of extinguishing scrip, certificates or bonds issued under the authority of this act. Any premium realized on the sale of such scrip, certificates or bonds, shall be applied to the payment of the interest on the loan hereby authorized as it accrues. Such scrip, certificates or bonds, shall be issued and said sinking fund assessed and collected in accordance with the provisions of said chapter four hundred and seven and of chapter two hundred and eighty-three of the acts of the year eighteen hundred and ninety-five, and of chapter four hundred and nineteen of the acts of the year eighteen hundred and ninety-nine: *provided, however*, that for the purpose of meeting the sinking fund and interest requirements for the loan authorized by this act, and to provide for the care and maintenance of the reservation taken under the authority of said chapter four hundred and sixty-four of the acts of the year eighteen hundred and ninety-nine the town of Cohasset shall be deemed and treated as a part of the metropolitan parks district, in the same manner and to the same extent as the cities and towns named in section three of said chapter four hundred and seven; and the commissioners appointed by the supreme judicial court to fix the proportion in which the cities and towns of the district shall make annual payments into the treasury of the commonwealth to meet said sinking fund and interest requirements and cost of care and maintenance shall in like manner determine the proportion to be paid by the town of Cohasset; and the treasurer of the commonwealth shall annually estimate the amount required for that purpose, in accordance with the proportion determined as aforesaid, and shall each year include the same as a part of the state tax of the town of Cohasset.

SECT. 3. This act shall take effect upon its passage.

[*Approved June 5, 1901.*]

1901. — CHAPTER 464.

AN ACT TO DEFINE THE DISPOSITION OF MONEY RECEIVED
BY THE METROPOLITAN PARK COMMISSION FROM RENTALS
AND FROM OTHER SOURCES.

Be it enacted, etc., as follows:

SECTION 1. All sums of money hereafter collected or received by the metropolitan park commission, including current receipts from the Revere beach bath house and other sums received for rentals, sales or use of property under its care, and all fines recovered for violation of rules and regulations established by said commission for the government and use of the lands, roadways or boulevards under its care, or for violation of

Disposition
of certain
moneys.

the laws of the commonwealth within the limits of said lands, roadways or boulevards, shall be accounted for and paid to the treasurer and receiver general of the commonwealth, who shall receive, hold and invest the same as a fund, to be known as the Metropolitan Parks Expense Fund. The said commission may expend said fund and any proceeds therefrom for the maintenance and improvement of the reservations and parkways under its care, in addition to any loans or appropriations authorized for park purposes.

Repeal.

SECT. 2. Section two of chapter one hundred and twenty-one of the acts of the year eighteen hundred and ninety-seven is hereby repealed.

SECT. 3. This act shall take effect upon its passage.

[Approved June 6, 1901.]

1901. — CHAPTER 491.

AN ACT TO DIRECT THE METROPOLITAN PARK COMMISSION TO CONSTRUCT A BRIDGE OVER THE MYSTIC RIVER BETWEEN THE CITIES OF SOMERVILLE AND MEDFORD.

Be it enacted, etc., as follows:

Construction of bridge across Mystic river authorized.

SECTION 1. The metropolitan park commission shall build a bridge, with a suitable draw and with suitable approaches, across the Mystic river between the city of Somerville and the city of Medford, at or near the site of the so-called Middlesex avenue bridge, subject to the provisions of chapter nineteen of the Public Statutes. The plans of said bridge shall be approved by the county commissioners of Middlesex county, and the bridge shall be constructed and maintained for the joint use of the highways of said cities and the metropolitan reservations, roads and boulevards along and near said river in said cities, and the said board shall maintain and operate the same for any purposes for which either the said highways or the said park roads may be used.

Cost and payment of bridge.

SECT. 2. The cost of the bridge and approaches thereto shall not exceed the sum of two hundred thousand dollars, and shall be paid in the manner hereinafter provided, in part by such cities and towns in the county of Middlesex as shall be found to be specially benefited by the use of said bridge for highway purposes, and in part by the metropolitan parks district, to such extent as said district shall be found to be benefited by the use of the bridge for park purposes, and in the proportion to be determined by a special commission appointed as hereinafter provided.

General powers of commission.

SECT. 3. For the purpose of carrying out the provisions of this act the said board shall have, in addition to the powers hereby conferred, the same powers and shall be subject to the same duties and liabilities in regard to said bridge as are pro-

vided in regard to roads and highways by chapter two hundred and eighty-eight of the acts of the year eighteen hundred and ninety-four and acts in addition thereto and in amendment thereof, or by any other provisions of law applicable thereto, except as herein otherwise provided, and in addition thereto said board may remove the existing Middlesex avenue bridge, so-called, or use any part thereof for the new bridge.

SECT. 4. The said board shall have authority to grant locations to street railways in and over said bridge, upon the same terms and conditions upon which it is now authorized to grant locations to street railways within the roads, boulevards, parks and reservations in its care and control, under the provisions of chapter four hundred and thirteen of the acts of the year nineteen hundred, and any moneys received from said grants shall be applied to the cost of or to the care and maintenance of the new bridge.

Locations to street railways over bridge authorized.

SECT. 5. To meet the expenses incurred under this act the treasurer and receiver general is hereby authorized, with the approval of the governor and council, to issue scrip or certificates of indebtedness to an amount not exceeding two hundred thousand dollars, as an addition to the amounts already authorized under the provisions of chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three and acts in addition thereto and in amendment thereof, and as part of the Metropolitan Parks Loan. Such scrip or certificates of indebtedness shall be issued as registered bonds, and shall bear interest at a rate not exceeding four per cent. per annum, payable semi-annually, on the first days of January and July of each year.

Metropolitan Parks Loan.

SECT. 6. The supreme judicial court sitting in equity shall, upon application of said board and after such notice as it may order, appoint three commissioners, who shall, after due notice and hearing, in such manner as they shall deem just and equitable, determine which of said cities and towns in the county of Middlesex are specially benefited by the use of said bridge for highway purposes, and the extent of such benefit, and to what extent the metropolitan parks district is benefited by the use of said bridge for park purposes, and shall further determine in proportion to such benefits the part of the cost of said bridge and approaches to be paid by each of said cities and towns and by the metropolitan parks district, and shall return their award into said court, and when the same has been accepted by said court it shall be a final adjudication of all matters herein referred to said commissioners, and shall be binding on all parties; and in like manner said commissioners shall determine and file their award as to the payment of the cost of maintenance of said bridge, and determine the proportion in which said cities and towns or any of them and said district shall bear the same.

Apportionment of cost and maintenance of bridge.

SECT. 7. Upon the filing and acceptance of said awards the treasurer and receiver general of the commonwealth shall estimate and determine the amount to be paid in accordance with said award by each of said cities and towns as their proportion

Apportionment to be assessed with state tax.

of the cost of said bridge, and shall include one fifth part thereof with interest at the current rates in the sum charged to each of said cities and towns in the apportionment and assessment of its state tax for the succeeding five years, until the sum to be paid by such city or town has been fully paid. The sums thus paid by said cities and towns shall be credited and added to the Metropolitan Parks Loan Sinking Fund. In like manner the treasurer and receiver general shall estimate and determine the amount to be paid in each year by any city or town according to the award of said commissioners for the care and maintenance of said bridge, and shall include the same in the annual state tax of such city or town, and the sums thus collected shall be credited to and paid into the funds available by the metropolitan park commission for the maintenance of said bridge, and may be expended by them for that purpose, in addition to any loans or appropriations authorized for park purposes.

SECT. 8. This act shall take effect upon its passage.

[Approved June 13, 1901.]

1902. — CHAPTER 77.

AN ACT TO ESTABLISH THE SALARIES OF THE METROPOLITAN PARK COMMISSIONERS.

Be it enacted, etc., as follows:

SALARIES OF
COMMISSIONERS.

SECTION 1. The chairman of the metropolitan park commissioners shall receive, from December thirty-first, nineteen hundred and one, a salary of forty-five hundred dollars a year, and the other members of said commission shall each receive a salary of six hundred dollars a year; and all of said sums shall be paid out of the funds provided by law for the maintenance of the metropolitan reservations and parkways.

SECT. 2. This act shall take effect upon its passage.

[Approved February 11, 1902.]

1902. — CHAPTER 166.

AN ACT TO EXEMPT THE TOWN OF WINTHROP FROM CERTAIN COSTS FOR THE MAINTENANCE OF THE METROPOLITAN PARK SYSTEM.

Be it enacted, etc., as follows:

EXEMPTION OF
WINTHROP FROM
COST OF MAIN-
TENANCE AND
REPAIR IN
WINTHROP.

SECTION 1. The town of Winthrop shall hereafter be exempt from all costs of maintaining and keeping in repair that part of the metropolitan park system which has been constructed within the limits of the town, excepting such assessments for the maintenance of the metropolitan park system as

may be imposed by law upon the said town in common with all other cities and towns in the metropolitan park district.

SECT. 2. This act shall take effect upon its passage.

[Approved March 12, 1902.]

1902. — CHAPTER 172.

AN ACT TO INCREASE THE AMOUNT OF MONEY TO BE PLACED AT THE DISPOSAL OF THE METROPOLITAN PARK COMMISSION FOR GENERAL PURPOSES.

Be it enacted, etc., as follows :

SECTION 1. The metropolitan park commission, created by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, for the purpose of carrying out the provisions of that act and of chapter two hundred and eighty-eight of the acts of the year eighteen hundred and ninety-four and of all acts in amendment thereof or in addition thereto, may expend an additional sum of four hundred and fifty thousand dollars.

Additional
expenditure
authorized.

SECT. 2. To meet the expenditures made under authority of this act the treasurer and receiver general, with the approval of the governor and council, shall issue scrip or certificates of indebtedness, bearing interest at a rate not exceeding four per cent. per annum, to the said amount of four hundred and fifty thousand dollars, as an addition to the Metropolitan Parks Loan, Series Two, at such times and in such sums as the metropolitan park commission shall certify to him to be necessary to meet the liabilities incurred by said commission under the acts aforesaid, and shall add to the existing sinking fund to provide for the payment of the same. Such scrip or certificates of indebtedness shall be issued and additions to said sinking fund shall be assessed and collected in accordance with the provisions of sections eight, ten and eleven of said chapter two hundred and eighty-eight and in accordance with the provisions of chapter two hundred and eighty-three of the acts of the year eighteen hundred and ninety-five and of chapter four hundred and nineteen of the acts of the year eighteen hundred and ninety-nine.

Metropolitan
Parks Loan,
Series Two.

SECT. 3. This act shall take effect upon its passage.

[Approved March 12, 1902.]

1902. — CHAPTER 325.

AN ACT RELATIVE TO THE PAYMENT OF CERTAIN ASSESSMENTS BY THE CITIES AND TOWNS IN THE METROPOLITAN PARKS DISTRICT.

Be it enacted, etc., as follows :

SECTION 1. In order to relieve cities and towns of the metropolitan parks district in providing for the several assess-

Metropolitan
Park Assess-
ment Loan.

ments required, or which may be required of them, for the years nineteen hundred and nineteen hundred and one, as estimated by the treasurer of the commonwealth, in accordance with the provisions of chapter four hundred and nineteen of the acts of the year eighteen hundred and ninety-nine to meet the interest and sinking fund requirements of the appropriations and loans authorized by the several acts relative to the metropolitan park commission, any such city by its city council, and any such town, by vote thereof at any regular or special town meeting, is hereby authorized to issue from time to time, beyond the limit of indebtedness fixed by law for such city or town, notes, scrip or bonds, to be denominated on the face thereof, Metropolitan Park Assessment Loan, to the amount estimated by said treasurer for said two years, or for any part of said amount, bearing interest not exceeding four per cent. per annum, payable semi-annually; the principal to be payable at periods of not more than thirty years from the issuing of such notes, scrip or bonds, respectively. The proceeds of such notes, scrip or bonds shall be used for the payment of the said assessments.

Certain provisions of law to apply.

SECT. 2. The provisions of sections thirteen, fourteen and fifteen of chapter twenty-seven of the Revised Laws shall, so far as they may be applicable, apply to the loans aforesaid.

SECT. 3. This act shall take effect upon its passage.

[Approved April 18, 1902.]

1903. — CHAPTER 118.

AN ACT TO ESTABLISH THE METROPOLITAN PARKS LOAN SINKING FUND, SERIES TWO.

Be it enacted, etc., as follows :

Metropolitan Parks Loan Sinking Fund, Series Two, established.

SECTION 1. The treasurer and receiver general is hereby authorized and directed to establish a sinking fund to be known as the Metropolitan Parks Loan Sinking Fund, Series Two, and to transfer from the Metropolitan Parks Loan Sinking Fund such portion of cash and securities as shall be determined to properly belong to the proposed new sinking fund. The Metropolitan Parks Loan Sinking Fund, Series Two, shall be maintained and increased by taxation from time to time to provide for the payment of bonds issued under the provisions of chapter two hundred and eighty-eight of the acts of the year eighteen hundred and ninety-four and of chapter four hundred and seventy-two of the acts of the year eighteen hundred and ninety-six, and under any other acts or part of acts under which bonds have been issued for parkways and boulevards.

Repeal.

SECT. 2. Chapter two hundred and eighty-three of the acts of the year eighteen hundred and ninety-five is hereby repealed.

SECT. 3. This act shall take effect upon its passage.

[Approved March 2, 1903.]

1903. — CHAPTER 158.

AN ACT TO PROTECT PUBLIC PARKS AND PARKWAYS FROM
DISFIGUREMENT BY ADVERTISEMENTS.*Be it enacted, etc., as follows :*

SECTION 1. The metropolitan park commission and the officer or officers having charge of public parks and parkways in any city or town may make such reasonable rules and regulations respecting the display of signs, posters or advertisements in or near to and visible from public parks and parkways entrusted to their care, as they may deem necessary for preserving the objects for which such parks and parkways are established and maintained.

Rules respect-
ing signs or ad-
vertisements
near public
parks.
1896, 407, §§ 2, 4.

SECT. 2. The commission or officers aforesaid shall give notice of all rules and regulations made by them under authority of this act by posting the same in three or more public places in the city or town in which the public park or parkway is situated, and by publishing the same in some newspaper, if there be one, published in such city or town. Such notice shall be deemed legal notice to all persons.

Notice of rules.

SECT. 3. Whoever violates any rule or regulation made and published as aforesaid shall be punished by a fine not exceeding twenty dollars for each offence; and any sign, poster or advertisement erected or maintained in violation of any such rule or regulation shall be deemed a public nuisance.

Penalty.

[Approved March 17, 1903.]

1903. — CHAPTER 290.

AN ACT TO INCREASE THE AMOUNT OF MONEY TO BE
PLACED AT THE DISPOSAL OF THE METROPOLITAN PARK
COMMISSION FOR PARK PURPOSES.*Be it enacted, etc., as follows :*

SECTION 1. The metropolitan park commission, created by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, for the purpose of carrying out the provisions of that act and of all acts in amendment thereof and in addition thereto, may expend an additional sum of one hundred and twenty-five thousand dollars.

Additional
expenditure
authorized.

SECT. 2. To meet expenditures made under authority of this act the treasurer and receiver general, with the approval of the governor and council, shall issue scrip or certificates of indebtedness, bearing interest at a rate not exceeding four per cent. per annum, to the said amount of one hundred and twenty-five thousand dollars, as an addition to the Metropolitan Parks

Metropolitan
Parks Loan.

Loan, at such time, and in such sums as the metropolitan park commission shall certify to him to be necessary to meet liabilities incurred by said commission under the acts aforesaid, and shall add to the existing sinking fund to provide for the payment of the same. Such scrip or certificates of indebtedness shall be issued, and additions to said sinking fund shall be assessed and collected in accordance with the provisions of sections nine, ten, eleven and twelve of said chapter four hundred and seven, and in accordance with the provisions of chapter two hundred and eighty-three of the acts of the year eighteen hundred and ninety-five and of chapter four hundred and nineteen of the acts of the year eighteen hundred and ninety-nine.

SECT. 3. This act shall take effect upon its passage.

[Approved April 30, 1903.]

1903.—CHAPTER 327.

AN ACT TO AUTHORIZE THE CITIES OF CAMBRIDGE AND SOMERVILLE AND THE TOWNS OF ARLINGTON AND BELMONT TO IMPROVE THE CONDITION OF ALEWIFE BROOK, LITTLE RIVER AND WELLINGTON BROOK.

Be it enacted, etc., as follows:

Improvement
of Alewife and
Wellington
brooks and
Little river.

SECTION 1. At any time or times within five years after the passage of this act the cities of Cambridge and Somerville and the towns of Arlington and Belmont, acting by the special commission hereinafter constituted may, at their joint expense, for the purpose of surface drainage, widen, fill, clear, grade, deepen, alter the channel of, wall up, cover and otherwise improve, in whole or in part, Alewife brook from its junction with Mystic river to its junction with Little river, and Little river from its junction with Alewife brook to the Arlington line, and Wellington brook from Little river to Wellington street.

Construction
of tide-gates
near Mystic
river.

SECT. 5. For the purpose of regulating the flow of water in the channels of said brooks and Little river, and of preventing the inflow of tide water from Mystic river into Alewife brook and upon the marshes and meadows along and in the vicinity of said brooks and Little river, said special commission shall, upon such terms and conditions as may mutually be agreed upon by said special commission and the metropolitan water and sewerage board and the metropolitan park commission, construct suitable tide gates located near Mystic river upon land now owned by the commonwealth of Massachusetts, and under the care and control of the metropolitan water and sewerage board and metropolitan park commission. If said special commission can-

not agree with said board and said metropolitan park commission upon the terms and conditions aforesaid, the same shall be determined by the state board of health.

SECT. 12. This act shall take effect upon its passage.
[Approved May 7, 1903.]

1903. — CHAPTER 359.

AN ACT TO INCREASE THE AMOUNT OF MONEY TO BE PLACED
AT THE DISPOSAL OF THE METROPOLITAN PARK COMMISSION FOR BOULEVARD PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. The metropolitan park commission, created by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, for the purpose of carrying out the provisions of that act and of chapter two hundred and eighty-eight of the acts of the year eighteen hundred and ninety-four and of all acts in amendment thereof or in addition thereto may expend an additional sum of one hundred and ten thousand dollars.

Additional
expenditure
authorized.

SECT. 2. To meet the expenditures made under authority of this act the treasurer and receiver general, with the approval of the governor and council, shall issue scrip or certificates of indebtedness, bearing interest at a rate not exceeding four per cent. per annum, to the said amount of one hundred and ten thousand dollars, as an addition to the Metropolitan Parks Loan, Series Two, at such times and in such sums as the said commission shall certify to him to be necessary to meet the liabilities incurred by said commission under the acts aforesaid, and shall add to the existing sinking fund to provide for the payment of the same. Such scrip or certificates of indebtedness shall be issued and additions to said sinking fund shall be assessed and collected in accordance with the provisions of sections eight, ten and eleven of said chapter two hundred and eighty-eight and in accordance with the provisions of chapter two hundred and eighty-three of the acts of the year eighteen hundred and ninety-five and of chapter four hundred and nineteen of the acts of the year eighteen hundred and ninety-nine.

Metropolitan
Parks Loan,
Series Two.

SECT. 3. This act shall take effect upon its passage.
[Approved May 15, 1903.]

1903.—CHAPTER 391.

AN ACT TO PROVIDE FOR THE CONSTRUCTION BY THE METROPOLITAN PARK COMMISSION OF A BRIDGE AND OTHER STRUCTURES OVER THE CHARLES RIVER BETWEEN THE CITY OF NEWTON AND THE TOWN OF WELLESLEY.

Be it enacted, etc., as follows :

Construction
of bridge, etc.,
across Charles
river.

SECTION 1. The metropolitan park commission, created by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, is hereby authorized to remove the present bridges and culverts which form part of the highways of Newton Upper Falls, known as Boylston street in the city of Newton, and Worcester street in the town of Wellesley, and the dams and other structures in and over the Charles river adjacent to said highways and below Echo bridge, so called, and to build such new bridges, culverts, dams, and other incidental structures as they may deem necessary to provide for said highways and for maintaining a proper water level in said river, and for regulating the flow and the use of the waters of the river and the use of the shores of the river as a part of the metropolitan park system: *provided, however*, that all plans for construction shall be approved by the board of aldermen of the city of Newton as to that part of the work lying within said city, and by the town of Wellesley as that part of the work lying within said town.

Cost and pay-
ment of bridge,
etc.

SECT. 2. The cost of said bridge and other structures, to an amount not exceeding forty thousand dollars, shall be paid in the manner hereinafter provided by the metropolitan parks district, the counties of Middlesex and Norfolk, the city of Newton, the town of Wellesley, and the Boston and Worcester Street Railway Company.

Metropolitan
Parks Loan.

SECT. 3. To meet expenditures made under authority of this act the treasurer and receiver general, with the approval of the governor and council, shall issue scrip or certificates of indebtedness, bearing interest at a rate not exceeding four per cent. per annum, to the amount of forty thousand dollars as an addition to the Metropolitan Parks Loan, at such times and in such sums as the metropolitan park commission shall certify to him to be necessary to meet the liabilities incurred by said commission under this act, and shall add to the existing sinking fund to provide for the payment of the same. Such scrip or certificates of indebtedness shall be issued and additions to said sinking fund shall be assessed and collected in accordance with the provisions of laws now or hereafter in force relating thereto.

Apportion-
ment of cost
of bridge.

SECT. 4. The expenses arising under the provisions of section one of this act shall be paid as follows:— If the expense is said sum of forty thousand dollars, twenty-four thousand dollars shall be paid by the metropolitan parks district, six thousand dollars by

the city of Newton, two thousand dollars by the Boston and Worcester Street Railway Company, three thousand dollars by the town of Wellesley, two thousand five hundred dollars by the county of Norfolk, and two thousand five hundred dollars by the county of Middlesex; and if the expense is less than said sum of forty thousand dollars, the amount to be paid severally by the metropolitan parks district, city, town, street railway company and counties shall be in the same proportion. Said city, town, counties and street railway company shall pay one fifth of the respective sums so charged to it as aforesaid to the treasurer and receiver general, with interest at the current rate, in each of the five years following the completion of said structures, or the same may be included in the annual state tax of said cities and towns; and the sum so paid shall be credited to the sinking fund established by law for the payment of the loan authorized by this act.

SECT. 5. Upon the completion of said structures so much thereof as lies within the limits of the highways in the town of Wellesley and the city of Newton shall be maintained and cared for as a part thereof by said town and city respectively, and so much thereof as lies within the limits of the Hemlock Gorge and Charles river reservations of the metropolitan park system shall be maintained and cared for by the metropolitan park commission out of the funds provided for the care of the metropolitan parks.

Care and maintenance of bridge.

SECT. 6. Legal damages sustained by any person or corporation by the exercise of the powers herein contained shall be estimated and determined in accordance with the provisions of section seven of chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three.

Damages.

SECT. 7. This act shall take effect upon its passage.

[Approved May 27, 1903.]

1903. — CHAPTER 419.

AN ACT TO PROVIDE FOR THE PURCHASE OF LAND AND CONSTRUCTION OF PARKWAYS AND BOULEVARDS BY THE METROPOLITAN PARK COMMISSION.

Be it enacted, etc., as follows:

SECTION 1. The metropolitan park commission, for the purpose of carrying out the provisions of chapter two hundred and eighty-eight of the acts of the year eighteen hundred and ninety-four and of all acts in addition thereto and in amendment thereof, is hereby authorized to expend the further sum of three hundred thousand dollars in each year for the ensuing five years, together with any balance remaining unexpended from the preceding year or years and in addition to all sums heretofore authorized. Any balance remaining unexpended at the expira-

Additional expenditure authorized.

tion of five years may be expended in the same manner and to the same extent as other appropriations for metropolitan park-ways and boulevards.

Metropolitan
Parks Loan,
Series Two.

SECT. 2. To meet expenditures made under authority of this act the treasurer and receiver general, with the approval of the governor and council, shall issue scrip or certificates of indebtedness, bearing interest at a rate not exceeding four per cent. per annum, to the amount of one million five hundred thousand dollars, as an addition to the Metropolitan Parks Loan, Series Two, of which three hundred thousand dollars of said bonds shall be issued in each year until the entire amount of said bonds is issued, and shall add to the existing sinking fund to provide for the payment of the same. Such scrip or certificates of indebtedness shall be issued and additions to said sinking fund shall be assessed and collected in accordance with the provisions of sections eight, ten and eleven of said chapter two hundred and eighty-eight, and in accordance with the provisions of chapter two hundred and eighty-three of the acts of the year eighteen hundred and ninety-five and of chapter four hundred and nineteen of the acts of the year eighteen hundred and ninety-nine.

SECT. 3. This act shall take effect upon its passage.

[Approved June 12, 1903.]

1903. — CHAPTER 429.

AN ACT TO PROVIDE FOR THE PURCHASE OF LAND AND CONSTRUCTION OF PARKS BY THE METROPOLITAN PARK COMMISSION.

Be it enacted, etc., as follows:

Additional
expenditure
authorized.

SECTION 1. The metropolitan park commission, created by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, for the purpose of carrying out the provisions of that act and of all acts in addition thereto and in amendment thereof, is hereby authorized to expend the further sum of three hundred thousand dollars in each year for the ensuing five years, together with any balance remaining unexpended from the preceding year or years, and in addition to all sums heretofore authorized. Any balance remaining unexpended at the expiration of five years may be expended in the same manner and to the same extent as other appropriations for metropolitan parks.

Metropolitan
Parks Loan.

SECT. 2. To meet expenditures made under authority of this act the treasurer and receiver general, with the approval of the governor and council, shall issue scrip or certificates of indebtedness, bearing interest at a rate not exceeding four per cent. per annum, to the amount of one million five hundred thousand dollars as an addition to the Metropolitan Parks Loan, of which three hundred thousand dollars of said bonds shall be

issued in each year until the entire amount of said bonds is issued, and shall add to the existing sinking fund to provide for the payment of the same. Such scrip or certificates of indebtedness shall be issued and additions to said sinking fund shall be assessed and collected in accordance with the provisions of sections nine, ten, eleven and twelve of said chapter four hundred and seven, and in accordance with the provisions of chapter two hundred and eighty-three of the acts of the year eighteen hundred and ninety-five and of chapter four hundred and nineteen of the acts of the year eighteen hundred and ninety-nine.

SECT. 3. This act shall take effect upon its passage.

[Approved June 16, 1903.]

1903.—CHAPTER 465.

AN ACT TO AUTHORIZE THE CONSTRUCTION OF A DAM ACROSS THE CHARLES RIVER BETWEEN THE CITIES OF BOSTON AND CAMBRIDGE.

Be it enacted, etc., as follows :

SECTION 1. The governor of the commonwealth, with the advice and consent of the council, shall appoint three commissioners, residents of the metropolitan parks district, who shall constitute the Charles river basin commission, hereinafter called the commission, and who shall be sworn before entering upon the duties of their office. One commissioner shall be designated by the governor as chairman, and two commissioners shall constitute a quorum. The term of office shall be three years, and all vacancies shall be filled by the governor, with the advice and consent of the council. Any commissioner may be removed by the governor, with the advice and consent of the council, for such cause as he shall deem sufficient and shall assign in the order of removal. Each commissioner shall receive an annual salary of such amount as the governor and council shall determine.

Appoint-
ment of
Charles river
basin commis-
sioners.

SECT. 2. The commission may appoint a secretary, engineers and assistants, shall keep accurate accounts of its expenditures, and shall make an annual report of its doings, including an abstract of its accounts, to the governor and council. The commission whenever the commonwealth has been authorized by the United States to build a dam and lock under the provisions of this act, shall proceed to do the work herein required of it, and shall in the mean time make examinations and plans therefor.

Appointment
of secretary,
employees, etc.

SECT. 3. S. The commission shall construct across Charles river between the cities of Boston and Cambridge, a dam, at least sufficiently high to hold back all tides and to maintain in the basin above the dam a substantially permanent water level not less than eight feet above Boston base. The dam shall

Construction
of dam across
Charles river.

Amended by
Sts. 1905, c. 65;
1906, c. 368, § 1.

occupy substantially the site of the present Craigie bridge, which shall be removed by the commission. The dam shall be not less than one hundred feet in width at said water level and a part thereof shall be a highway and the remainder shall be a highway, or a park or parkway, as the commission shall determine. The dam shall be furnished with a lock not less than three hundred and fifty feet in length between the gates, forty feet in width and thirteen feet in depth below Boston base, and shall be built with a suitable drawbridge or drawbridges, wasteways and other appliances. The part of the dam used as a highway shall be maintained and operated in the same manner as the Cambridge bridge, and under the laws now or hereafter in force relating to said bridge.

Dredging of
navigable
channels.

SECT. 4. The commission shall dredge navigable channels in the basin from the lock to the wharves between the dam and Cambridge bridge, to Broad canal and to Lechmere canal the channel to be not less than one hundred feet in width and eighteen feet in depth; shall dredge Broad canal to such depths as will afford to and at the wharves thereon not less than seventeen feet of water up to the Third Street draw, not less than thirteen feet of water from the Third Street draw to the Sixth Street draw, and not less than eleven feet of water from the Sixth Street draw to the railroad draw, and not less than nine feet of water for one hundred and twenty-five feet above the railroad draw; shall dredge Lechmere canal to such depths as will afford to and at the wharves thereon not less than seventeen feet of water up to and including Sawyer's lumber wharf, and not less than thirteen feet of water from said wharf up to the head of the canal at Bent street; all depths aforesaid to be measured from the water level to be maintained in the basin.

The commission shall do all such dredging and all strengthening of the walls of the canals and of the basin where dredging is done by the driving of prime oak piles two feet on centres along the front of said wharves or walls, and all removing and relocating of pipes and conduits made necessary by such dredging, so that vessels requiring a depth of water not exceeding the respective depths above prescribed can lie alongside of, and in contact with, the wharves; and this work shall be done in such manner as to cause the least possible inconvenience to abutters, and shall be finished on or before the completion of the dam; and after the walls or wharves have been so strengthened, all repairs on or rebuilding of the walls and wharves shall be done by the abutters.

The commission shall do such dredging in the basin outside of the channels aforesaid as may be necessary for the removal of sewage, sludge or any offensive deposit; shall do such other dredging as it shall deem proper, and shall take all proper measures for the destruction of malarial mosquitoes in the basin and its vicinity.

Construction
of marginal
conduits.

SECT. 5. The commission, before the completion of the dam, shall construct marginal conduits on the north side of the

basin from the outlet of the overflow channel in Binney street to a point below the dam, and on the south side of the basin from the present outlet of the Back Bay Fens to a point below the dam, and may construct an extension thereof toward, or to, St. Mary street, the conduits to be used to receive and conduct below the dam the overflow from sewers and the surface drainage and other refuse matter which would otherwise pass into the basin.

SECT. 6. The commission, for the purpose of carrying out the provisions of the preceding sections, may from time to time take in fee or otherwise, by purchase or otherwise, for the commonwealth, or the city of Boston or the city of Cambridge, as the commission shall determine, lands, flats and lands covered by tide-water on Charles river, by filing in the registry of deeds for the county and district in which the lands or flats are situated a description thereof, sufficiently accurate for identification, signed by a majority of the commissioners; and any person whose property is so taken may have compensation therefor as determined by agreement with the commission, and if they cannot agree the compensation may be determined by a jury in the superior court for the county where the property is situated under the same provisions of law, so far as they are applicable, which apply in determining the value of lands taken for highways under chapter forty-eight of the Revised Laws, upon petition therefor by the commission, or by such person, filed in the clerk's office of said court against the commonwealth or the city for which the lands or flats are taken within one year after the taking, and costs shall be taxed and execution issued as in civil cases.

Taking of
lands and flats.

SECT. 7. S. The metropolitan park commission, when the work provided for in the preceding sections is finished, shall, subject to the powers vested by law in the state board of health, have exclusive control of the dam and lock and of the basin and river between the dam and the city of Waltham, as a part of the metropolitan parks system, and of all poles, wires and other structures placed or to be placed on, across, over or in any part of said basin, dam or lock, and of the placing thereof, except the part of the dam used as a highway and the bridges and other structures erected by any city or town within its limits and upon its own lands; may make reasonable rules and regulations, not impairing freight traffic, for the care, maintenance, protection and policing of the basin; and throughout the year shall operate the lock without charge, maintain the lock, channels and canals aforesaid at the depths aforesaid, and clear of obstructions caused by natural shoaling or incident to the building of the dam, and maintain the water in the basin at such level and the lock, channels and canals sufficiently clear of obstructions by ice so that any vessel ready to pass through the lock, and requiring no more depth of water than aforesaid, can pass through to the wharves aforesaid. In the event of an emergency, requiring the temporary reduction of such level,

Metropolitan
Park Commis-
sion to have
control of dam,
lock, basin,
etc.

Amended by
St. 1906, c. 368.

notice thereof shall be given to the occupants of said wharves, and such reduction shall not be lower nor continue longer than the emergency requires. Said metropolitan park commission may order the removal of all direct sewage or factory waste as a common nuisance from the river and its tributaries below the city of Waltham; and no sewer, drain, overflow or other outlet for factory or house drainage shall hereafter be connected with the basin below said city without the approval of the metropolitan park commission.

Charles River
Basin Loan.
Amended by
St. 1906, c. 402,
§ 1.

SECT. 8. S. The commonwealth shall in the first instance pay all expenses incurred in carrying out the provisions of the preceding sections, and the same shall, except as provided in the following section, constitute part of the cost of construction and maintenance of the metropolitan parks system; and in addition to the amounts heretofore authorized for such construction the treasurer and receiver general shall, from time to time, as authorized by the governor and council, issue notes, bonds or scrip, in the name and behalf of the commonwealth, entitled Charles River Basin Loan, to the amount which the commission may deem necessary for the expenses incurred under the first six sections of this act; and all acts and parts of acts relative to loans for such construction and providing for their payment shall, so far as they may be applicable and not inconsistent herewith, apply to such notes, bonds and scrip and to their payment.

Apportion-
ment of cost
and mainte-
nance.
Amended by
St. 1906, c. 402,
§ 2.

SECT. 9. S. The commissioners next appointed under the provisions of chapter four hundred and nineteen of the acts of the year eighteen hundred and ninety-nine, and amendments thereof, in apportioning the expenses of maintaining the metropolitan parks system shall include as part thereof the expense of maintenance incurred under the preceding sections of this act; shall also determine, as they shall deem just and equitable, what portion of the total amount expended for construction under sections three, four, five and six of this act shall be apportioned to the cities of Boston and Cambridge as the cost of the removal of Craigie bridge and the construction of a suitable bridge in place thereof, and the remainder shall be considered and treated as part of the cost of construction of the metropolitan park system. The treasurer and receiver general shall determine the payments to be made each year by said cities, one half by each, to meet the interest and sinking fund requirements for the amounts apportioned to them as the cost of such bridge, and the same shall be paid by each city into the treasury of the commonwealth as part of its state tax.

Boston to do
certain dredg-
ing and con-
struct certain
conduits and
sewers.

SECT. 10. The city of Boston, by such officer or officers as the mayor may designate, shall forthwith after the passage of this act, do such dredging in the Back Bay Fens as the board of health of said city may require, shall construct a conduit between Huntington avenue and Charles river, to form an outlet into Charles river for the commissioners' channel of Stony brook, shall reconstruct the present connections between the

river and the Fens so as to allow free access of water from the river into the streams and ponds in the Fens and thence into the river, and shall construct a sewer in the rear of the houses on the north side of Beacon street between Otter and Hereford streets. Such officer or officers may construct a conduit between Green street and Forest Hills and may construct or rebuild within five years one or more conduits for Stony brook between the westerly side of Elmwood street and the Fens: *provided, however*, that the expense of such conduits between Green street and Forest Hills and between Elmwood street and the Fens shall be paid for out of the annual appropriation for sewer construction under the provisions of chapter four hundred and twenty-six of the acts of the year eighteen hundred and ninety-seven and acts in amendment thereof or in addition thereto.

SECT. 11. S. The board of park commissioners of Boston may, with the approval of the mayor, build a wall or embankment on the Boston side of Charles river beginning at a point in the southwest corner of the stone wall of the Charlesbank, thence running southerly by a straight or curved line to a point in Charles river not more than three hundred feet distant westerly from the harbor commissioners' line, measuring on a line perpendicular to the said commissioners' line at its intersection with the southerly line of Mount Vernon street, but in no place more than three hundred feet westerly from said commissioners' line; thence continuing southerly and westerly by a curved line to a point one hundred feet or less from the wall in the rear of Beacon street; thence by a line substantially parallel with said wall to the easterly line of the Back Bay Fens, extended to intersect said parallel line.

Boston may
build wall or
embankment.
Amended by
St. 1906, c. 402,
§ 3.

SECT. 12. S. The board of park commissioners of said city may take, in fee or otherwise, by purchase or otherwise, for said city, for the purpose of a public park such lands, flats and lands covered by tide-water between Charles, Brimmer and Back streets and the line of the wall or embankment aforesaid, as the mayor shall approve, by filing in the registry of deeds for the county of Suffolk a description thereof sufficiently accurate for identification, signed by a majority of the commissioners, and shall construct a public park on the lands so taken; and any person whose property is so taken may have compensation therefor as determined by agreement with the board, and if they cannot agree the amount thereof may be determined by a jury in the superior court for the county of Suffolk, under the same provisions of law, so far as they may be applicable, which apply in determining the value of lands taken for highways under chapter forty-eight of the Revised Laws, upon petition therefor by the board, or by such person, filed in the clerk's office of said court against said city within one year after the taking, and costs shall be taxed and execution issued as in civil cases.

Boston may
take lands and
flats for public
park.
Amended by
St. 1906, c. 402,
§ 4.

SECT 13. S. The city of Boston shall pay the expenses incurred under sections ten, eleven and twelve of this act, except

Boston to pay
certain ex-
penses.

Amended by
St. 1906, c. 402,
§ 5.

as otherwise provided in section ten of this act; and to meet said expenses the city treasurer of the city shall, from time to time, on the request of the mayor, issue and sell bonds of the city to an amount not exceeding eight hundred thousand dollars, and the bonds so issued shall not be reckoned in determining the legal limit of indebtedness of the city.

Location of
lock, etc.

SECT. 14. The lock shall be built above the lower line of the dam, and the Boston and Maine Railroad shall, before the dam is completed, remove its bridge, piles and other structures in Charles river which are southerly or westerly of a line defined in red on a plan filed in the office of the board of harbor and land commissioners marked "Plan showing line from above or southwest of which the Boston and Maine Railroad shall remove all of its structures in Charles river and between the harbor lines, May 25, 1903. Woodward Emery, Chairman of Harbor and Land Commissioners"; and may rebuild the same northerly and easterly of the line so defined. The draw in the new bridge shall not be easterly of nor more than fifty feet westerly from the location of the present draw, and shall be so located as to be directly opposite the lock. Within the limits herein prescribed the commission shall determine the position of the lock and draw.

Enforcement
of act.

SECT. 15. The supreme judicial court and the superior court shall, upon application of any party in interest, including any owner or occupant of property abutting on the basin or on Broad canal or Lechmere canal, have jurisdiction to enforce, or prevent violation of, any provision of this act and any order, rule or regulation made under authority thereof.

Repeal of.
1891, 344.

SECT. 16. Chapter three hundred and forty-four of the acts of the year eighteen hundred and ninety-one, as amended by section one of chapter four hundred and thirty-five of the acts of the year eighteen hundred and ninety-three, and chapter five hundred and thirty-one of the acts of the year eighteen hundred and ninety-eight are hereby repealed.

When to take
effect.

SECT. 17. This act shall take effect on the first day of July in the year nineteen hundred and three.

[Approved June 24, 1903.]

1904. — CHAPTER 124.

AN ACT TO AUTHORIZE THE METROPOLITAN PARK COMMISSION
TO CONSTRUCT A DRAWLESS BRIDGE OVER SACHEM BROOK,
SO-CALLED, IN THE QUINCY SHORE RESERVATION.

Be it enacted, etc., as follows:

Construction
of bridge over
Sachem brook.

SECTION 1. The metropolitan park commission is hereby authorized to construct a drawless bridge over that part of Sachem brook, so-called, in Quincy, lying within the lands

acquired by said commission by takings or otherwise for Quincy shore reservation.

SECT. 2. No action shall be taken relative to the construction of said bridge until the plan therefor has been approved by the board of harbor and land commissioners.

Approval of plan.

SECT. 3. This act shall take effect upon its passage.

[Approved February 27, 1904.]

1904. — CHAPTER 170.

AN ACT TO PROVIDE FOR THE DISPOSITION BY THE METROPOLITAN PARK COMMISSION OF UNCLAIMED OR ABANDONED PROPERTY.

Be it enacted, etc., as follows :

SECTION 1. If money, goods or other property which has been stolen, lost, abandoned or taken from a person under arrest comes into the possession of a police officer or other employee of the metropolitan park commission by virtue of his office or employment, he shall deliver the same to the person designated by said commission to receive the same, and he shall thereupon be relieved from further responsibility therefor.

Disposition of stolen, lost or abandoned property.

SECT. 2. If no person proves ownership of such money, goods or other property within six months said commission may cause the same, excepting money unclaimed, to be sold at public auction at such place and time and by such person as said commission may designate.

Sale at public auction.

SECT. 3. Notice of the time and place of such sale, with a description of the property to be sold, shall be given by publishing the same once in a newspaper published in the city of Boston.

Notice of sale.

SECT. 4. Such property, if perishable or liable to deteriorate greatly in value by keeping, or the value of which will probably be less than the expense of keeping, may be sold at public auction at such place and at such time within six months and by such person as said commission may designate, such notice of the time and place of sale as said commission may deem reasonable and proper first being given.

Disposition of perishable property.

SECT. 5. The proceeds of such sales, together with such unclaimed money, after deducting all reasonable charges and expenses incurred on account of such property, shall be accounted for and paid to the treasurer and receiver general of the commonwealth and shall be credited and added to the Metropolitan Parks Expense Fund.

Disposition of proceeds of sales, etc.

SECT. 6. If within two years after any such sale the owner claims such property and proves his ownership to the satisfaction of said commission the amount of such unclaimed money or the proceeds of the sale of such property, after deducting all reasonable charges and expenses, shall be paid over to him by

Proceeds of sales, etc., may be paid to owner.

the treasurer and receiver general out of said Metropolitan Parks Expense Fund.

SECT. 7. This act shall take effect upon its passage.

[Approved March 22, 1904.]

1904. — CHAPTER 236.

AN ACT TO AUTHORIZE THE METROPOLITAN PARK COMMISSION TO REBUILD THE FINLAY MILL DAM ACROSS CHARLES RIVER AT NEWTON LOWER FALLS.

Be it enacted, etc., as follows:

Repair and
reconstruction
of Finlay dam.

SECTION 1. The metropolitan park commission, created by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, is hereby authorized to repair, reconstruct and maintain at its present height the Finlay dam, so-called, across Charles river, at Washington street, Newton Lower Falls, Newton and Wellesley, at such point on land of the commonwealth at or near its present site as the commission may deem best.

Agreements
for repair,
etc., and
regarding
water power.

SECT. 2. For all purposes consistent with the powers and duties granted to and imposed upon said commission by said chapter four hundred and seven, and acts in amendment thereof and in addition thereto, the said commission is authorized to make agreements with any individual or corporation in regard to the repair, reconstruction or maintenance of said dam, and may make agreements in regard to, or may lease or grant such rights and privileges in, the water power created by the same as it may deem best.

Damages.

SECT. 3. Any owner of land or rights in land which is or may be overflowed or otherwise damaged by the erection or maintenance of the said dam may have his damages assessed by a jury or otherwise, upon a petition filed in the superior court for the county in which the land lies, and such damages so assessed shall be in full compensation for all damages hereafter to be caused by the maintenance of said dam forever, but no petition for such damages shall be brought after the expiration of one year from the passage of this act.

Reduction,
etc., of dam-
ages.

SECT. 4. The commonwealth may answer and maintain in bar to any such petition or in reduction of the damages claimed thereunder any rights and interests which it may have acquired by purchase or otherwise in said dam or for the maintenance thereof, or in the land alleged to be damaged, and any other matter which is in reduction of such damages or which may show that the petitioner cannot maintain the petition, and shall be allowed by way of set-off any benefit caused by such dam to the petitioner in respect to his land.

SECT. 5. This act shall take effect upon its passage.

[Approved April 13, 1904.]

1904. — CHAPTER 237.

AN ACT TO AUTHORIZE THE METROPOLITAN PARK COMMISSION TO BUILD A BRIDGE OVER MALDEN RIVER WITHIN THE LIMITS OF REVERE BEACH PARKWAY.

Be it enacted, etc., as follows :

SECTION 1. The metropolitan park commission is hereby authorized to build a bridge with a draw across that part of Malden river in Everett and Medford which is within the limits of Revere beach parkway, and all licenses, permits or approvals necessary for this purpose, heretofore obtained from the board of harbor and land commissioners or from any other authority, are hereby ratified and confirmed.

Construction
of bridge
across Malden
river.

SECT. 2. This act shall take effect upon its passage.

[Approved April 13, 1904.]

1904. — CHAPTER 326.

AN ACT TO PROVIDE FOR THE CONSTRUCTION BY THE MET- ROPOLITAN PARK COMMISSION OF A PUBLIC BATH HOUSE ON NAHANT BEACH.

Be it enacted, etc., as follows :

SECTION 1. The metropolitan park commission is hereby authorized and directed to construct, and thereafter to maintain, on the land taken in the town of Nahant for the Nahant beach parkway, and at the locality specified by the commission in its annual report for the year nineteen hundred and two, a public bath house, with the necessary appurtenances; and the said commission is hereby authorized to make such changes in the roadways as may be necessary or convenient for this purpose. The commission may establish rules and regulations and make reasonable charges for the use of the bath house, and all sums received for such use shall be paid to the treasurer and receiver general, and shall be placed by him to the credit of the Metropolitan Parks Expense Fund, and may be expended by the said commission in addition to any loans or appropriations authorized for park purposes.

Construction
of bath house
at Nahant
beach.

SECT. 2. To meet expenditures made under authority of this act the treasurer and receiver general, with the approval of the governor and council, shall issue scrip or certificates of indebtedness, bearing interest at a rate not exceeding four percent. per annum, to the amount of seventy thousand dollars as an addition to the Metropolitan Parks Loan, at such times and in such sums as the metropolitan park commission shall certify to him to be necessary to meet the liabilities incurred by said commission under the act aforesaid, and shall add to the existing

Metropolitan
Parks Loan.

sinking fund to provide for the payment of the same. Such scrip or certificates of indebtedness shall be issued and additions to said sinking fund shall be assessed and collected in accordance with the provisions of sections nine, ten, eleven and twelve of said chapter four hundred and seven, and in accordance with the provisions of chapter two hundred and eighty-three of the acts of the year eighteen hundred and ninety-five and of chapter four hundred and nineteen of the acts of the year eighteen hundred and ninety-nine.

SECT. 3. This act shall take effect upon its passage.

[Approved May 13, 1904.]

1904. — CHAPTER 431.

AN ACT RELATIVE TO THE APPROVAL OF CERTAIN OFFICIAL BONDS.

Be it enacted, etc., as follows :

Approval of
official bonds.

SECTION 1. The official bonds given by persons designated to receipt for advances of money by the metropolitan park commission and the metropolitan water and sewerage board, which have heretofore been approved by the auditor of accounts, shall hereafter be approved by the treasurer and receiver general.

SECT. 2. This act shall take effect upon its passage.

[Approved June 4, 1904.]

1904. — CHAPTER 445.

AN ACT TO AUTHORIZE THE CONSTRUCTION OF A DAM ACROSS THE MYSTIC RIVER AT CRADOCK BRIDGE IN THE CITY OF MEDFORD AND TO PROVIDE FOR A REPORT ON THE PURIFICATION OF MYSTIC RIVER, ALEWIFE BROOK, AND THE ADJACENT WATER COURSES, PONDS AND DRAINAGE AREAS.

Be it enacted, etc., as follows :

Construction
of dam across
Mystic river
at Cradock
bridge.

SECTION 1. The metropolitan park commission is hereby authorized to build, maintain and care for a dam across Mystic river at or near Cradock bridge in the city of Medford, with suitable gates, sluices and machinery for operating the same and with weirs, rollways, locks and other apparatus and devices for passing over and around the dam: *provided, however*, that the plans therefor shall first be approved by the board of harbor and land commissioners, and by the United States government, and

by the state board of health as to the plans being consistent with the improvement and purification of Mystic river and Alewife brook.

SECT. 2. The state board of health is hereby directed to prepare and report to the next general court a method and plans for purifying Mystic river, Alewife brook and the adjacent water courses, ponds and drainage areas, with due regard to the purposes indicated in chapter three hundred and twenty-seven of the acts of the year nineteen hundred and three and to the plans of the metropolitan park commission for park developments within the said region, and in conference with the commission appointed under said chapter. For these purposes said board may employ such clerical, engineering and other assistance, and may print such copies of its report and plans as it may deem necessary. The expense incurred hereunder shall be divided and paid one half by the metropolitan park commission and one half by the cities and towns named in said chapter three hundred and twenty-seven as an expense incurred under said act.

Report of method for purifying Mystic river, Alewife brook, etc.

SECT. 3. This act shall take effect upon its passage.

[Approved June 8, 1904.]

1904. — RESOLVES. — CHAPTER 107.

RESOLVE TO PROVIDE FOR THE ACCEPTANCE BY THE COMMONWEALTH OF THE CONDITIONS AND LIMITATIONS SET FORTH IN A CERTIFICATE OF THE ACTING SECRETARY OF WAR OF THE UNITED STATES RELATING TO THE CONSTRUCTION AND MAINTENANCE OF THE CHARLES RIVER DAM.

Resolved, That the express conditions and limitations set forth in a certificate of Robert Shaw Oliver, acting secretary of war, under date of the eighteenth day of May, nineteen hundred and four, relating to the construction and maintenance of a dam across the Charles river, and to the maintenance of channels in connection therewith, be, and hereby are, accepted, and the obligations thereof assumed by the commonwealth, as follows:

Acceptance of conditions and limitations relating to construction and maintenance of dam across Charles river.

1. That detailed plans for the lock and dam, and of all channels to be dredged outside established harbor lines, shall be submitted to the secretary of war, and that the work be not begun until such plans have received his approval.

2. That the Charles River Basin Commission, or its successors, shall operate the lock, at their own expense, as a free navigable waterway of the United States, subject to such regulations as the secretary of war may promulgate.

3. That the emptying of the basin shall be subject to regulation by the secretary of war.

4. That the Charles River Basin Commission shall dredge and maintain in the basin, from the head of the lock to the channel in the river, a channel one hundred feet wide and eighteen feet deep at mean low water, in a location to be approved by the secretary of war.

5. That, whenever called upon to do so by the secretary of war, the Charles River Basin Commission shall deepen two and two-tenths feet the channel eighty feet wide called for by the present approved project for the improvement of Charles river by the United States, known as the project of June fourteen, eighteen hundred and eighty, the said deepening to extend as far as Brackett's wharf.

6. That the Commonwealth of Massachusetts shall maintain in the Charles river from the head of the thirty-five foot channel at Charles River bridge to the dam and lock, the necessary depth and width of channel for the commerce of the river, as fixed by the secretary of war.

7. That the alterations in the bridge of the Boston and Maine Railroad ordered by said act of the general court of Massachusetts shall be made, approval of the plans by the secretary of war being obtained, as required by law.

8. That the approval hereby granted shall not be construed as authorizing any invasion of property rights, or any act whereby a claim for damages against the United States might arise.
[Approved June 8, 1904.]

1905. — CHAPTER 65.

AN ACT TO AUTHORIZE THE CHARLES RIVER BASIN COMMISSION TO CONSTRUCT A TEMPORARY HIGHWAY BRIDGE OVER THE CHARLES RIVER.

Be it enacted, etc., as follows :

St. 1908, c. 465,
§ 3, amended.

Construction
of dam across
Charles river.

SECTION 1. Section three of chapter four hundred and sixty-five of the acts of the year nineteen hundred and three is hereby amended by inserting after the word "commission", in the eighth line, the words: — The commission may construct or otherwise provide a temporary highway bridge and approaches thereto for the use of vehicles and pedestrians during the construction of the dam, — so as to read as follows: — *Section 3.* The commission shall construct across Charles river between the cities of Boston and Cambridge, a dam, at least sufficiently high to hold back all tides and to maintain in the basin above the dam a substantially permanent water level not less than eight feet above Boston base. The dam shall occupy substantially the site of the present Craigie bridge, which shall be removed by the commission. The commission may construct or otherwise provide a temporary highway bridge and approaches

thereto for the use of vehicles and pedestrians during the construction of the dam. The dam shall be not less than one hundred feet in width at said water level and a part thereof shall be a highway and the remainder shall be a highway, or a park or parkway, as the commission shall determine. The dam shall be furnished with a lock not less than three hundred and fifty feet in length between the gates, forty feet in width and thirteen feet in depth below Boston base, and shall be built with a suitable drawbridge or drawbridges, wasteways and other appliances. The part of the dam used as a highway shall be maintained and operated in the same manner as the Cambridge bridge, and under the laws now or hereafter in force relating to said bridge.

SECT. 2. This act shall take effect upon its passage.

[Approved February 9, 1905.]

1905. — CHAPTER 194.

AN ACT TO AUTHORIZE THE METROPOLITAN PARK COMMISSION TO TAKE CERTAIN LANDS IN THE TOWN OF RANDOLPH.

Be it enacted, etc., as follows:

SECTION 1. The metropolitan park commission, without the concurrence of any other board or commission, may take in fee or otherwise, by purchase, gift, devise or eminent domain, in the name and for the benefit of the commonwealth, as a public reservation for exercise and recreation, lands and rights in lands in the town of Randolph, as an addition to and in improvement of lands devised to the commonwealth through said commission by the late Henry L. Pierce. Said commission shall have the same powers of management and control of the property acquired under this act as is conferred on it by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three and acts in addition thereto and in amendment thereof in respect to other lands hitherto acquired by it.

Taking of
lands, etc., in
Randolph.

SECT. 2. The damages sustained by any person or corporation by reason of any taking hereunder shall be recovered in the manner provided in section seven of said chapter four hundred and seven.

Damages.

SECT. 3. This act shall take effect upon its passage.

[Approved March 17, 1905.]

1905. — CHAPTER 456.

AN ACT TO AUTHORIZE THE METROPOLITAN PARK COMMISSION
TO LAY OUT, EXTEND AND CONSTRUCT ROADWAYS AND
PARKWAYS ACROSS RAILROADS, AND TO MAKE CERTAIN
AGREEMENTS WITH RAILROAD COMPANIES.

Be it enacted, etc., as follows :

Agreements
with railroads
to facilitate
laying out, etc.,
of roadways or
parkways.

SECTION 1. The metropolitan park commission is hereby authorized to make and enter into such agreements with any railroad corporation as may be necessary to secure or facilitate the laying out, extension, construction and maintenance of a roadway or parkway under the care, custody or control of said commission across railroad lands or locations, and to indemnify such railroad corporation against any claims for damages to persons or property, arising out of such laying out, extension, construction and maintenance.

Proceedings in
case of inability
to agree.

SECT. 2. Said commission shall give the railroad corporation thirty days' notice in writing of the proposed work, accompanied by a plan thereof; and in case said commission is unable to agree with the railroad corporation across whose land or location it desires to lay out, extend and construct a roadway or parkway, it may have the question of its right to cross and the manner of crossing determined by the board of railroad commissioners: *provided, however*, that no crossing of such roadway or parkway shall be at a level with the railroad tracks and that no such roadway or parkway shall be laid out, extended and constructed across a railroad in such manner as to injure or obstruct the railroad.

Hearing and
decree.

SECT. 3. Said board, upon petition of the commission, and after due notice to the railroad company, shall hear the parties; and the board, if of opinion that said petition should be granted, shall make a decree describing the place, time and manner of constructing such crossing, and how much, if any, of the work made necessary by such crossing shall be done by the railroad company; and thereafter said commission may lay out, construct and maintain such roadway or parkway across the railroad in accordance with the terms of said decree.

Payment of
expense of
construction
and maintenance.

SECT. 4. All expenses of and incident to constructing and maintaining any roadway or parkway crossing a railroad as herein provided shall be borne by the commonwealth and shall be paid out of the funds available for use by said commission, unless otherwise determined by an agreement between said commission and any such railroad corporation.

Damages.

SECT. 5. The damages sustained by any railroad corporation by reason of the laying out, extension, construction and maintenance of a roadway or parkway under this act may be assessed by a jury of the superior court in the same manner as is provided by law with respect to damages sustained by reason of

the laying out of ways: *provided, however*, that no suit for such damages shall be brought after the expiration of three years from the day when the railroad is entered upon for the purpose of constructing any roadway or parkway as authorized herein.

SECT. 6. This act shall take effect upon its passage.

[*Approved May 25, 1905.*]

1905. — CHAPTER 457.

AN ACT RELATIVE TO ASSESSMENTS UPON CITIES AND TOWNS IN THE METROPOLITAN WATER, SEWERAGE AND PARK DISTRICTS.

Be it enacted, etc., as follows :

SECTION 1. In case any apportionment for assessment upon the cities and towns of either the metropolitan water, sewerage or park districts shall not have been finally determined by July first of any year, the last apportionment thereof shall remain in force for the purpose of assessment during such current year. Any difference between such apportionment when finally made by the commission, for such year, and the preëxisting apportionment above referred to, shall be adjusted with such city or town by the treasurer and receiver general in the assessment of the succeeding year by a deduction therefrom or an addition thereto, as may be required to give effect to the said apportionment when made as aforesaid.

Apportion-
ment of
assessments.

SECT. 2. This act shall take effect upon its passage.

[*Approved May 25, 1905.*]

1906. — CHAPTER 158.

AN ACT TO PROHIBIT THE POLLUTION OF THE CHARLES RIVER WITHIN THE METROPOLITAN PARKS DISTRICT.

Be it enacted, etc., as follows :

SECTION 1. The state board of health is hereby authorized, upon the petition of the metropolitan park commission, or the mayor of any city or the selectmen of any town within the metropolitan parks district, and after notice to all parties interested and a hearing, to prohibit the entrance or discharge of sewage into that part of the Charles river within the present boundaries of said metropolitan parks district, and to prevent the entrance or discharge of every other substance, except surface or storm water, into said river within said parks district which may be injurious to public health, or may tend to create a public nuisance, or to obstruct the flow of water within said parks district, including all waste or refuse from any factory or other establishment where persons are employed, unless the

Prohibition of
discharge of
sewage into
Charles river.

owner thereof shall use the best practicable and reasonably available means to render such waste or refuse harmless.

Enforcement
of act.

SECT. 2. The supreme judicial court or any justice thereof and the superior court or any justice thereof shall have jurisdiction in equity to enforce the provisions of this act and any order made by the state board of health in conformity therewith. Proceedings to enforce any such order shall be instituted and prosecuted by the attorney general upon the request of the state board of health.

SECT. 3. This act shall take effect upon its passage.

[Approved March 14, 1906.]

1906. — CHAPTER 167.

AN ACT RELATIVE TO THE USE OF PARKS ON THE CHARLES RIVER.

Be it enacted, etc., as follows:

Locations for
boat houses on
land or waters
of Charles
river.

SECTION 1. The cities of Cambridge and Newton and the town of Watertown, by a majority of the board of park commissioners therein, or, if there is no such board, by such officer or officers as the council of the cities, or the selectmen of the town, may designate, may lease or otherwise provide for locations for boat houses, landings and floats in, upon, under and over any part of the lands or waters of the Charles river owned or controlled or which may hereafter be owned or controlled by said cities or town, respectively, for such considerations and rentals and upon such terms, conditions, restrictions, provisions or agreements as such park commissioners or such officer or officers acting in the premises may deem best, providing no such lease shall be given for a term exceeding twenty years.

Authority of
commission
not abridged.

SECT. 2. Nothing herein contained shall be deemed to abridge the authority of the metropolitan park commission under chapter four hundred and sixty-five of the acts of the year nineteen hundred and three or any other power or authority now possessed by said commission, nor the authority of the city of Boston under chapter three hundred and sixty-five of the acts of the year eighteen hundred and ninety-seven.

SECT. 3. This act shall take effect upon its passage.

[Approved March 16, 1906.]

1906. — CHAPTER 336.

AN ACT RELATIVE TO PREMIUMS RESULTING FROM THE SALE OF METROPOLITAN PARK LOAN BONDS.

Be it enacted, etc., as follows:

Application of
premiums
from sale of
bonds.

SECTION 1. Premiums received from the sale of securities, certificates of debt or bonds, issued on account of the metro-

politan parks for park or boulevard purposes, shall hereafter be paid into the sinking fund for the extinguishment of the principal indebtedness.

SECT. 2. This act shall take effect upon its passage.

[Approved April 30, 1906.]

1906. — CHAPTER 368.

AN ACT RELATIVE TO THE TRANSFER OF THE CARE AND CONTROL OF THE CHARLES RIVER DAM AND BASIN TO THE METROPOLITAN PARK COMMISSION.

Be it enacted, etc., as follows:

SECTION 1. Section three of chapter four hundred and sixty-five of the acts of the year nineteen hundred and three is hereby amended by striking out the last sentence thereof, so as to read as follows: — *Section 3.* The commission shall construct across Charles river between the cities of Boston and Cambridge, a dam, at least sufficiently high to hold back all tides and to maintain in the basin above the dam a substantially permanent water level not less than eight feet above Boston base. The dam shall occupy substantially the site of the present Craigie bridge, which shall be removed by the commission. The dam shall be not less than one hundred feet in width at said water level and a part thereof shall be a highway and the remainder shall be a highway, or a park or parkway, as the commission shall determine. The dam shall be furnished with a lock not less than three hundred and fifty feet in length between the gates, forty feet in width and thirteen feet in depth below Boston base, and shall be built with a suitable drawbridge or drawbridges, wasteways and other appliances.

St. 1903, c. 465,
§ 3, amended.

Construction
of dam across
Charles river.

SECT. 2. Section seven of said chapter four hundred and sixty-five is hereby amended by inserting after the word "exclusive", in the fourth line, the words: — care and, — by inserting after the word "lock", in the fifth line, the words: — and of any highway, park or parkway, drawbridge or drawbridges, constructed in connection therewith, — by inserting after the word "lock", in the ninth line, the words: — highway, park or parkway, drawbridge or drawbridges, — by striking out the words "the part of the dam used as a highway and", in the tenth line, by striking out the word "the", before the word "basin", in the fourteenth line, and inserting in place thereof the word: — said, — by inserting after the word "basin", in the fourteenth line, the words: — dam, lock, highway, park, parkway, drawbridge or drawbridges, breaches of which rules shall be breaches of the peace, punishable as such, — by inserting after the word "lock", in the fifteenth line, the words: — and drawbridge or drawbridges, — and by adding at the end thereof the words: —

St. 1903, c. 465,
§ 7, amended.

Metropolitan
park commis-
sion to have
control of dam,
lock, basin, etc.

Said metropolitan park commission shall also have and exercise over said basin, dam, lock, highway, park, parkway, drawbridge or drawbridges, all other power, duties and liabilities now imposed upon said commission by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three and acts in addition thereto and in amendment thereof relative to the care, maintenance and control by said commission of open spaces for exercise and recreation so far as the provisions of said acts are consistent with the provisions of this act, — so as to read as follows: — *Section 7.* The metropolitan park commission, when the work provided for in the preceding sections is finished, shall, subject to the powers vested by law in the state board of health, have exclusive care and control of the dam and lock and of any highway, park or parkway, drawbridge or drawbridges, constructed in connection therewith and of the basin and river between the dam and the city of Waltham, as a part of the metropolitan parks system, and of all poles, wires and other structures placed or to be placed on, across, over or in any part of said basin, dam or lock, highway, park or parkway, drawbridge or drawbridges, and of the placing thereof, except the bridges and other structures erected by any city or town within its limits and upon its own lands; may make reasonable rules and regulations, not impairing freight traffic, for the care, maintenance, protection and policing of said basin, dam, lock, highway, park, parkway, drawbridge or drawbridges, breaches of which rules shall be breaches of the peace, punishable as such; and throughout the year shall operate the lock and drawbridge or drawbridges without charge, maintain the lock, channels and canals aforesaid at the depths aforesaid, and clear of obstructions caused by natural shoaling or incident to the building of the dam, and maintain the water in the basin at such level and the lock, channels and canals sufficiently clear of obstructions by ice so that any vessel ready to pass through the lock, and requiring no more depth of water than aforesaid, can pass through to the wharves aforesaid. In the event of an emergency, requiring the temporary reduction of such level, notice thereof shall be given to the occupants of said wharves, and such reduction shall not be lower nor continue longer than the emergency requires. Said metropolitan park commission may order the removal of all direct sewage or factory waste as a common nuisance from the river and its tributaries below the city of Waltham; and no sewer, drain, overflow or other outlet for factory or house drainage shall hereafter be connected with the basin below said city without the approval of the metropolitan park commission. Said metropolitan park commission shall also have and exercise over said basin, dam, lock, highway, park, parkway, drawbridge or drawbridges, all other power, duties and liabilities now imposed upon said commission by chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three and acts in addition thereto and in amendment thereof relative to the care, maintenance and control by said commission of open

spaces for exercise and recreation so far as the provisions of said acts are consistent with the provisions of this act.

SECT. 3. When the work of the Charles river basin commission as provided for in said chapter four hundred and sixty-five is finished, said commission shall certify the fact in writing to the metropolitan park commission, and such certificate or a copy of the same, attested by any member of the metropolitan park commission or by its secretary, shall be prima facie evidence that the exclusive care and control of said dam, lock, highway, park or parkway, drawbridge or drawbridges, are vested in the metropolitan park commission.

Evidence of care and control of dam, etc.

SECT. 4. So much of chapter four hundred and sixty-seven of the acts of the year eighteen hundred and ninety-eight as is inconsistent herewith is hereby repealed.

Repeal.

SECT. 5. This act shall take effect upon its passage.

[Approved May 8, 1906.]

1906. — CHAPTER 402.

AN ACT RELATIVE TO THE CHARLES RIVER BASIN.

Be it enacted, etc., as follows :

SECTION 1. Section eight of chapter four hundred and sixty-five of the acts of the year nineteen hundred and three is hereby amended by striking out the words "the preceding", in the third line, by inserting after the word "sections", in the same line, the words:—one, two, three, four, five, six, seven, eleven and twelve, as amended,—and by striking out the words "the first six sections", in the thirteenth line, and inserting in place thereof the words:—sections one, two, three, four, five, six, eleven and twelve,—so as to read as follows:—*Section 8.* The commonwealth shall in the first instance pay all expenses incurred in carrying out the provisions of sections one, two, three, four, five, six, seven, eleven and twelve, as amended, and the same shall, except as provided in the following section, constitute part of the cost of construction and maintenance of the metropolitan parks system; and in addition to the amounts heretofore authorized for such construction the treasurer and receiver general shall, from time to time, as authorized by the governor and council, issue notes, bonds or scrip, in the name and behalf of the commonwealth, entitled Charles River Basin Loan, to the amount which the commission may deem necessary for the expenses incurred under sections one, two, three, four, five, six, eleven and twelve of this act; and all acts and parts of acts relative to loans for such construction and providing for their payment shall, so far as they may be applicable and not inconsistent herewith, apply to such notes, bonds and scrip, and to their payment.

St. 1903, c. 465, § 8, amended.

Charles River Basin Loan.

SECT. 2. Said chapter four hundred and sixty-five is hereby further amended by striking out section nine and inserting in

St. 1903, c. 465, § 9, amended.

Apportion-
ment of cost
and mainte-
nance.

place thereof the following:— *Section 9.* The commissioners appointed under the provisions of chapter four hundred and nineteen of the acts of the year eighteen hundred and ninety-nine, and amendments thereof, in apportioning the expenses of maintaining the metropolitan parks system shall include as part thereof the expense of maintenance incurred under sections one, two, three, four, five, six, seven, eight, eleven and twelve of this act; shall also determine as they shall deem just and equitable what portion of the total amount expended for construction under sections three, four, five and six of this act shall be apportioned to the cities of Boston and Cambridge as the cost of the removal of Craigie bridge and the construction of a suitable bridge in place thereof, and the remainder shall be considered and treated as part of the cost of construction of the metropolitan parks system; and shall also determine as they shall deem just and equitable, what portion of the total amount expended for the cost of construction of the marginal conduit on the south side of the basin and of the embankment and park, provided for by this act, shall be apportioned to the city of Boston as the cost of the construction of said embankment and park, and what portion shall be fixed as the cost of said marginal conduit. The cost of the construction of said embankment and park, as so apportioned, shall be repaid to the commonwealth by the city of Boston with four per cent. interest from the date of said apportionment, and bills for the betterments assessed by the Charles river basin commission under the provisions of this act shall be listed and committed to the collector of taxes of the city of Boston, and shall be collected under the same provisions of law as betterments levied for the construction of highways in the city of Boston. All amounts so received by the city of Boston from said betterments shall be applied first toward paying to the commonwealth said apportionment for the cost of construction of said embankment and park as above provided; and second to the interest and sinking fund requirements of the loan of the city of Boston authorized by this act. The treasurer and receiver general shall determine the payments to be made each year by the cities of Boston and Cambridge, one half by each, to meet the interest and sinking fund requirements for the amounts apportioned to them as the cost of such bridge, and the same shall be paid by each city into the treasury of the commonwealth as a part of its state taxes. The city treasurer of Boston shall from time to time on the request of the mayor issue and sell bonds of the city to meet the payments to the commonwealth required by this section, and the bonds so issued shall not be reckoned in determining the statutory limit of indebtedness of the city.

St. 1903, c. 465,
§ 11, amended.
Charles River
Basin Commis-
sion to build
wall or em-
bankment.

SECT. 3. Said chapter four hundred and sixty-five is hereby further amended by striking out section eleven and inserting in place thereof the following:— *Section 11.* The Charles river basin commission shall build a wall and embankment on the Boston side of Charles river, beginning at a point in the south-

west corner of the stone wall of the Charlesbank, thence running southerly by a straight or curved line to a point in Charles river not more than three hundred feet westerly from the harbor commissioners' line, measuring on a line perpendicular to the said commissioners' line at its intersection with the southerly line of Mount Vernon street, but in no place more than three hundred feet westerly from the said commissioners' line; thence continuing southerly and westerly by a curved line to a point one hundred feet or less from the wall in the rear of Beacon street; thence by a line substantially parallel with said wall, but at no point more than one hundred feet distant therefrom, to the westerly line of the Back Bay Fens extended to intersect said parallel line.

SECT. 4. Said chapter four hundred and sixty-five is hereby further amended by striking out section twelve and inserting in place thereof the following: — *Section 12.* The Charles River Basin commission shall acquire in fee, or otherwise, by purchase or otherwise, for the city of Boston, for the purpose of a public park, parkway or street, flats and land covered by tide water and lying easterly of Charlesgate West by filing in the registry of deeds for the county of Suffolk a description thereof sufficiently accurate for identification, signed by a majority of said commission, and shall construct a public park or lay out a parkway or street, on the lands so taken: *provided, however,* that nothing herein contained shall authorize the taking for any purpose of Back street, or of any lot or part of any lot on the north side of Beacon street or of any flats or lands covered by tide water south of West Boston bridge and lying between the line of the wall the construction whereof is provided for in section eleven of this act and the Cambridge shore, nor the taking for any purpose but that of a public park of any flats or lands covered by tide water between said wall and the sea wall as at present existing; and any person whose property is so taken may have compensation therefor as determined by agreement with the commission, or, in the absence of such agreement, the amount thereof may be determined by a jury in the superior court for the county of Suffolk upon petition therefor by the commissioners or by such person, filed in the clerk's office of said court, against the commonwealth, and within one year after the taking, and under the same proceedings and provisions of law, so far as they may be applicable, which apply in determining the value of lands taken for highways under chapter forty-eight of the Revised Laws. And because of the construction and maintenance of the embankment and park as herein provided and the establishment of the northerly line thereof as herein finally fixed and defined as the limit of any embankment or construction northerly from Beacon street between the Charlesbank and the Back Bay Fens, said commission shall within two years after the completion of the park as herein provided and defined determine the value of the benefit or advantage, from the establishment of said embankment and park, beyond

St. 1906, c. 465,
§ 12, amended.
Taking of land
by Charles
River Basin
Commission.

that resulting to all real estate in the city of Boston, to each parcel of real estate east of the Back Bay Fens bordering upon or near said embankment and park as so completed, and shall assess such betterment upon the said estates so benefited; but such assessments shall in no event exceed in the aggregate one half of the actual cost of construction of said embankment and park, exclusive of the cost of the marginal conduit, nor the sum of thirty dollars for each lineal front foot of private ownership. Any person aggrieved by such assessment of betterments may within one year thereafter file a petition in the superior court for the county of Suffolk, and after notice to the city of Boston shall have a trial by jury therein, and costs shall be awarded as provided in section seven of chapter fifty of the Revised Laws.

St. 1906, c. 465,
§ 18, amended.

SECT. 5. Section thirteen of said chapter four hundred and sixty-five is hereby amended by striking out the words, "sections ten, eleven and twelve" in the second line, and inserting in place thereof the words: — section ten, — and by striking out the words, "section ten of this act", in the third and fourth lines, and inserting in place thereof the words: — said section ten, — so as to read as follows: — *Section 13.* The city of Boston shall pay the expenses incurred under section ten of this act, except as otherwise provided in said section ten; and to meet said expenses the city treasurer of the city shall, from time to time, on the request of the mayor, issue and sell bonds of the city to an amount not exceeding eight hundred thousand dollars, and the bonds so issued shall not be reckoned in determining the legal limit of indebtedness of the city.

Boston to pay
certain
expenses.

Repeal.

SECT. 6. Chapter three hundred and forty-four of the acts of the year eighteen hundred and ninety-one and chapter four hundred and thirty-five of the acts of the year eighteen hundred and ninety-three are hereby repealed.

SECT. 7. This act shall take effect upon its passage.

[Approved May 21, 1906.]

1906. — CHAPTER 529.

AN ACT RELATIVE TO THE PURIFICATION OF MYSTIC RIVER,
ALEWIFE BROOK AND ADJACENT WATER COURSES, PONDS
AND DRAINAGE AREAS.

Be it enacted, etc., as follows:

Improvements
in and about
Alewife brook,
etc.

Amended by
St. 1907, c. 529,
§ 1.

SECTION 1. S. The metropolitan park commission shall, in connection with the construction of a dam in Mystic river, make improvements in and about Alewife brook and its tributaries and the drainage areas of said brook and tributaries, substantially in accordance with the report of the state board of health under section two of chapter four hundred and forty-five of the acts of the year nineteen hundred and four.

SECT. 2. S. For the purpose of carrying out the provisions of this act said commission may from time to time take in fee or otherwise, by purchase or otherwise, for the commonwealth, lands, flats and lands covered with water, easements, rights and other property situated within five hundred feet on either side of the centre of the channel of said brook and tributaries, by filing in the registry of deeds for Middlesex county a description thereof sufficiently accurate for identification, signed by a majority of the commission. Said commission may construct and maintain under any public way or railroad location any drain or other structure in such manner as not unnecessarily to obstruct travel thereon and may change the location of said brook and any of said tributaries where the same crosses a public way or railroad location and elsewhere and shall have all other powers necessary to carry out the purpose of this act.

Taking of
lands and flats,
etc.

Amended by
St. 1907, c. 529,
§ 2.

SECT. 3. S. To meet the expenses incurred under this act the treasurer and receiver general is hereby authorized, with the approval of the governor and council, to issue scrip or certificates of indebtedness to an amount not exceeding one hundred thousand dollars, as an addition to the amounts already authorized under the provisions of chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three and acts in addition thereto and in amendment thereof and as a part of the Metropolitan Parks Loan, and subject to the provisions thereof. Such scrip or certificates of indebtedness shall be issued as registered bonds, payable in not exceeding twenty years from the date of issue, and shall bear interest at a rate not exceeding four per cent. per annum, payable semi-annually on the first days of January and July of each year.

Metropolitan
Parks Loan.

Amended by
St. 1907, c. 529,
§ 3.

SECT. 4. S. The cost of such improvements shall not exceed the sum of one hundred thousand dollars, and shall be paid by the cities of Cambridge and Somerville and the towns of Arlington and Belmont, in the following manner:— The supreme judicial court sitting in equity shall, upon application of said commission and after such notice as it may order, appoint three commissioners, who shall, after due notice and hearing, in such manner as they shall deem just and equitable, determine in what proportion the cost of said improvements shall be paid by each of said cities and towns, and shall return their award into said court, and when the same has been accepted by said court it shall be a final adjudication and binding upon all parties.

Apportion-
ment of cost of
improvements.

Amended by
St. 1907, c. 529,
§ 4.

SECT. 5. S. Upon the acceptance of said award the treasurer and receiver general of the commonwealth shall determine the amount to be paid in accordance with said award by each of said cities and towns as their proportion of the cost of said improvements and shall collect the same, with interest at the current rates, in the sum charged to each of said cities and towns in the apportionment and assessments of its state tax for the succeeding twenty years until the final sum to be paid by each city and town has been fully paid. The assessments thus

Proportionate
cost of
improvements
to be assessed
with state tax.

Amended by
St. 1907, c. 529,
§ 5.

paid shall be credited and added to the Metropolitan Parks Loan Sinking Fund.

Damages.

SECT. 6. Any person entitled by law to damages, whether by the taking of or injury to his property under the authority of this act, who is unable to agree with the commission upon the amount of compensation therefor, may have such damages determined by a jury in the superior court in the county of Middlesex by petition therefor against the commonwealth, filed within two years after such taking or after the doing of such injury, under the same provisions of law, so far as they are applicable, which apply in determining the value of lands taken for highways under chapter forty-eight of the Revised Laws.

Assessment of betterments.

SECT. 7. Each city and town shall have the same authority within five years after the passage of this act to determine the value of and assess upon real estate in said city or town the amounts of betterments accruing to said real estate by reason of said improvements as is conferred by chapter fifty of the Revised Laws upon boards of city or town officers authorized to lay out ways, and the provisions of sections one to thirteen, both inclusive, except sections four and eleven of said chapter fifty, shall apply to such assessments.

Acceptance of act.

SECT. 8. This act shall take effect upon its acceptance by the city council of each of said cities and by the selectmen of each of said towns within four months of its passage.¹

[Approved June 27, 1906.]

1907. — CHAPTER 165.

AN ACT RELATIVE TO ASSESSMENTS FOR THE MAINTENANCE OF THE METROPOLITAN PARK, SEWER AND WATER DISTRICTS.

Be it enacted, etc., as follows:

Annual appropriations shall be made for maintenance of metropolitan systems.

SECTION 1. Annual appropriations shall be made for the maintenance of parks and boulevards under the charge of the metropolitan park commission, and for the maintenance of the north and south metropolitan systems of sewerage, and for the maintenance of the metropolitan water system under the control of the metropolitan water and sewerage board, and such appropriations shall be apportioned and assessed by the treasurer and receiver general in the manner now provided by law.

Balance to be carried to succeeding year.

SECT. 2. Of the amount so assessed and collected, any balance remaining on the thirtieth day of November in any year shall be carried forward to the next year, and shall be taken into account in making the assessments for that year.

Repeal.

SECT. 3. All acts and parts of acts inconsistent with this act are hereby repealed.

SECT. 4. This act shall take effect upon its passage.

[Approved March 4, 1907.]

¹ Accepted by the city of Cambridge, October 27, 1906; by the city of Somerville, September 14, 1906; by the town of Arlington, October 26, 1906, and by the town of Belmont, October 27, 1906.

1907. — CHAPTER 221.

AN ACT TO AUTHORIZE THE METROPOLITAN PARK COMMISSION TO MAINTAIN THAT PART OF THE LOWER DAM IN WATERTOWN ACROSS CHARLES RIVER WHICH IS WITHIN THE CARE AND CONTROL OF SAID COMMISSION, AND TO MAKE AGREEMENTS RELATIVE TO THE MAINTENANCE OF SAID DAM AND TO THE USE OF THE WATER, WATER RIGHTS AND WATER POWER CONNECTED THEREWITH.

Be it enacted, etc., as follows :

SECTION 1. The metropolitan park commission, constituted under chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three, is hereby authorized to maintain at its present height that part of the lower dam across Charles river in Watertown lying upon land of said commonwealth acquired through said commission. For all purposes consistent with the powers and duties granted to and imposed upon said commission by said chapter and acts in amendment thereof and in addition thereto, said commission is also authorized to make agreements with any person or corporation in regard to the repair, reconstruction or maintenance of said dam, and relative to the use and disposition of the water, water rights, and water power of the commonwealth connected therewith.

Maintenance of dam across Charles river at present height, etc. 1893, 407, § 4.

SECT. 2. This act shall take effect upon its passage.

[Approved March 20, 1907.]

1907. — CHAPTER 275.

AN ACT TO AUTHORIZE THE METROPOLITAN PARK COMMISSION TO BUILD CERTAIN STRUCTURES IN THE CITY OF MEDFORD IN CONNECTION WITH THE CONSTRUCTION OF THE DAM ACROSS MYSTIC RIVER.

Be it enacted, etc., as follows :

SECTION 1. The metropolitan park commission is hereby authorized to lengthen Cradock bridge in the city of Medford and to construct an additional arch and additional channel for the waters of Mystic river thereunder, and to do such other work in and upon said bridge and that part of Main street upon and adjacent to said bridge as the commission may deem necessary for regulating the flow and use of the waters of Mystic river in connection with the construction of the dam across said river authorized by chapter four hundred and forty-five of the acts of the year nineteen hundred and four. Any expenses incurred under authority of this act shall be a part of the expenses of

Cradock bridge to be lengthened, etc.

the construction of said dam as authorized by said chapter four hundred and forty-five.

SECT. 2. This act shall take effect upon its passage.

[Approved April 6, 1907.]

1907. — CHAPTER 404.

AN ACT TO AUTHORIZE THE METROPOLITAN PARK COMMISSION JOINTLY WITH THE CHARLES RIVER BASIN COMMISSION TO GRANT LOCATIONS FOR BOAT HOUSES.

Be it enacted, etc., as follows :

Locations of
boat houses on
Charles river.

SECTION 1. The Charles river basin commission shall make provision in the construction and laying out of the park or parkway provided for by chapter four hundred and two of the acts of the year nineteen hundred and six, for the location of boat houses, landings thereon and floats in connection therewith. At any time after the passage of this act, upon the petition of any duly organized boat club for a location for a boat house, landing or floats in connection therewith, said commission and the metropolitan park commission by a majority of the members of both commissions acting jointly as one board for the purpose, and, after the completion by said Charles river basin commission of the work imposed upon it by law, the metropolitan park commission alone, may grant to such boat club a suitable location, by lease or otherwise, with the right to erect a boat house thereon and to project landings and floats on the waters of the Charles river contiguous thereto, upon such terms, conditions, restrictions and agreements and for such period of years, not exceeding twenty-five, as said commissions acting jointly, or, after the completion of said work, as the metropolitan park commission may deem expedient. In passing upon such petition consideration shall be given to the fact that at the time of the passage of this act such boat club owned or occupied a boat house on the southerly or easterly side of the Charles river between Charlesgate west and the new dam, the point on the river bank at which such boat house was situated and the length of time during which it had been owned or maintained there.

SECT. 2. This act shall take effect upon its passage.

[Approved May 13, 1907.]

1907. — CHAPTER 449.

AN ACT TO AUTHORIZE THE ESTABLISHMENT OF A ZOÖLOGICAL GARDEN IN THE MIDDLESEX FELLS RESERVATION.

Be it enacted, etc., as follows :

Zoölogical
garden in
Middlesex
Fells,
1893, 407, § 4.

SECTION 1. The metropolitan park commission is hereby authorized to set apart a suitable tract of land within the limits of the Middlesex Fells reservation, so-called, with sufficient

approaches thereto, for a zoölogical garden, and to allow the Massachusetts Zoölogical Society the use of the same, rent free, subject to such rules and regulations as the said commission may establish.

SECT. 2. The Massachusetts Zoölogical Society is hereby authorized to establish and maintain upon the land set apart in accordance with the provisions of section one hereof, a zoölogical garden for the purposes for which said corporation was established.

Establishment and maintenance of a zoölogical garden.

SECT. 3. This act shall take effect upon its passage.

[Approved May 24, 1907.]

1907. — CHAPTER 529.

AN ACT RELATIVE TO THE PURIFICATION OF MYSTIC RIVER, ALEWIFE BROOK AND ADJACENT WATER COURSES, PONDS AND DRAINAGE AREAS.

Be it enacted, etc., as follows:

SECTION 1. Section one of chapter five hundred and twenty-nine of the acts of the year nineteen hundred and six is hereby amended by inserting after the word "tributaries", in the fourth line, the words:— and Spy pond,— by striking out the word "and", at the end of the same line, by inserting after the word "tributaries", in the fifth line, the words:— and pond,— and by adding at the end thereof the words:— and shall, if any changes are made in the shores, bottom or outlet of Spy pond, leave the same in as good sanitary condition as at the present time. Such portions of the bottom of Spy pond as may be made dry land by the work contemplated by this act and not required for park or parkway purposes as herein below provided, shall, so far as owned by the commonwealth, become the property of the owners of the adjoining upland,— so as to read as follows:— *Section 1.* The metropolitan park commission shall, in connection with the construction of a dam in Mystic river, make improvements in and about Alewife brook and its tributaries and Spy pond and the drainage areas of said brook, tributaries and pond, substantially in accordance with the report of the state board of health under section two of chapter four hundred and forty-five of the acts of the year nineteen hundred and four, and shall, if any changes are made in the shores, bottom or outlet of Spy pond, leave the same in as good sanitary condition as at the present time. Such portions of the bottom of Spy pond as may be made dry land by the work contemplated by this act and not required for park or parkway purposes as herein below provided, shall, so far as owned by the commonwealth, become the property of the owners of the adjoining upland.

St. 1906, c. 529, § 1, amended.

Improvements in and about Alewife brook.

St. 1906, c. 529,
§ 2, amended.

Taking of
lands and flats.

SECT. 2. Section two of said chapter five hundred and twenty-nine is hereby amended by striking out the words "situated within five hundred feet", in the fifth and sixth lines, and inserting in place thereof the words:— necessary for the carrying out of the purposes of this act,— and by adding at the end thereof the words:— Said commission shall do the work of construction under this act unless the detailed plans of construction have been disapproved by either of the mayors of the cities or by the selectmen of either of the towns interested, provided such disapproval is received by said commission within thirty days after the presentation of said plans by said commission to the mayors of said cities and to the selectmen of said towns. In the event of any such disapproval this act shall be void and of no effect,— so as to read as follows:— *Section 2.* For the purpose of carrying out the provisions of this act said commission may from time to time take in fee or otherwise, by purchase or otherwise, for the commonwealth, lands, flats and lands covered with water, easements, rights and other property necessary for the carrying out of the purposes of this act on either side of the centre of the channel of said brook and tributaries, by filing in the registry of deeds for Middlesex county a description thereof sufficiently accurate for identification, signed by a majority of the commission. Said commission may construct and maintain under any public way or railroad location any drain or other structure in such manner as not unnecessarily to obstruct travel thereon and may change the location of said brook and any of said tributaries where the same crosses a public way or railroad location and elsewhere and shall have all other powers necessary to carry out the purpose of this act. Said commission shall do the work of construction under this act unless the detailed plans of construction have been disapproved by either of the mayors of the cities or by the selectmen of either of the towns interested, provided such disapproval is received by said commission within thirty days after the presentation of said plans by said commission to the mayors of said cities and to the selectmen of said towns. In the event of any such disapproval this act shall be void and of no effect.

St. 1906, c. 529,
§ 3, amended.

Metropolitan
Parks Loan.

SECT. 3. Section three of said chapter five hundred and twenty-nine is hereby amended by inserting after the word "hundred", in the fifth line, the words:— and twenty-five,— so as to read as follows:— *Section 3.* To meet the expenses incurred under this act the treasurer and receiver general is hereby authorized, with the approval of the governor and council, to issue scrip or certificates of indebtedness to an amount not exceeding one hundred and twenty-five thousand dollars, as an addition to the amounts already authorized under the provisions of chapter four hundred and seven of the acts of the year eighteen hundred and ninety-three and acts in addition thereto and in amendment thereof and as a part of the Metropolitan Parks Loan, and subject to the provisions thereof. Such

scrip or certificates of indebtedness shall be issued as registered bonds, payable in not exceeding twenty years from date of issue, and shall bear interest at a rate not exceeding four per cent. per annum, payable semi-annually on the first days of January and July of each year.

SECT. 4. Section four of said chapter five hundred and twenty-nine is hereby amended by inserting after the word "hundred", in the second line, the words: — and twenty-five, — and by striking out all after the word "manner", in the fourth and fifth lines, and inserting in place thereof the words: — forty-seven per cent thereof by the city of Cambridge, twelve per cent thereof by the city of Somerville, twenty-four per cent thereof by the town of Arlington, and seventeen per cent thereof by the town of Belmont, — so as to read as follows: —

St. 1906, c. 529,
§ 4, amended.

Section 4. The cost of such improvements shall not exceed the sum of one hundred and twenty-five thousand dollars, and shall be paid by the cities of Cambridge and Somerville and the towns of Arlington and Belmont, in the following manner: — forty-seven per cent thereof by the city of Cambridge, twelve per cent thereof by the city of Somerville, twenty-four per cent thereof by the town of Arlington, and seventeen per cent thereof by the town of Belmont.

Apportion-
ment of cost of
improvements.

SECT. 5. Section five of said chapter five hundred and twenty-nine is hereby amended by striking out the words "Upon the acceptance of said award", in the first line, and by striking out the words "said award", in the third and fourth lines, and inserting in place thereof the words: — the provisions of section four of this act, — so as to read as follows: — *Section 5.* The treasurer and receiver general of the commonwealth shall determine the amount to be paid in accordance with the provisions of section four of this act by each of said cities and towns as their proportion of the cost of said improvements and shall collect the same, with interest at the current rates, in the sum charged to each of said cities and towns in the apportionment and assessments of its state tax for the succeeding twenty years until the final sum to be paid by each city and town has been fully paid. The assessments thus paid shall be credited and added to the Metropolitan Parks Loan Sinking Fund.

St. 1906, c. 529,
§ 5, amended.

Proportionate
cost of
improvements
to be assessed.

SECT. 6. This act shall take effect upon its passage.

[Approved June 19, 1907.]

1907. — RESOLVES. — CHAPTER 108.

RESOLVE TO PROVIDE FOR THE APPOINTMENT OF A COMMISSION TO INVESTIGATE THE SUBJECT OF PUBLIC IMPROVEMENTS FOR THE METROPOLITAN DISTRICT.

Resolved, That the governor, by and with the advice and consent of the council, shall appoint three persons, and the mayor of the city of Boston shall appoint two persons, who shall

Commission to
investigate
public im-
provements for
metropolitan
district.

together constitute a commission of five for the purposes hereinafter named. The chairman of said commission shall be designated by the governor. The said appointees shall serve without compensation, and shall be persons of recognized qualifications and large experience in respect to one or more of the following subjects or professions, namely: finance, commerce, industry, transportation, real estate, architecture, engineering, civic administration and law. Said commission shall investigate and report as to the advisability of any public works in the metropolitan district which in its opinion will tend to the convenience of the people, the development of local business, the beautifying of the district, or the improvement of the same as a place of residence. It shall consider the establishment of a systematic method of internal communication by highways, the control or direction of traffic and transportation, and the location of such docks and terminals as the interests of the district may demand. It shall recommend the method of executing and paying for such improvements as it may suggest, and shall make such maps, plans and estimates of cost as may be needed for its investigation, or for the proper presentation of its conclusions, and may employ such assistants therefor as it deems necessary. The commission may expend such sums of money, not exceeding twenty-five thousand dollars, for clerical, expert and other assistance, and for other incidental expenses, as it deems necessary. The commission shall make its final report to the governor and to the mayor of Boston on or before the first day of December, nineteen hundred and eight, and its powers and duties shall then terminate. The governor shall transmit the report to the general court of the year nineteen hundred and nine. The expenses incurred under the provisions of this act shall be assessed upon the metropolitan parks district.

[Approved June 15, 1907.]

II. METROPOLITAN SEWERAGE ACTS.

1889. — CHAPTER 439.

AN ACT TO PROVIDE FOR THE BUILDING, MAINTENANCE AND OPERATION OF A SYSTEM OF SEWAGE DISPOSAL FOR THE MYSTIC AND CHARLES RIVER VALLEYS.

Be it enacted, etc., as follows:

SECTION 1. The governor by and with the advice and consent of the council shall appoint three able and discreet men, inhabitants of the commonwealth, who shall constitute a board to be known as the metropolitan sewerage commissioners, and who shall hold office, one for the term of five years, one for the term of four years and one for the term of three years beginning with

Appointment
of metropol-
itan sewerage
commis-
sioners.
153 Mass. 566.
166 Mass. 403,
480.
169 Mass. 108.
173 Mass. 507.

the first Monday in January in the year eighteen hundred and eighty-nine; and in the year eighteen hundred and ninety-two and annually thereafter the governor shall appoint, as aforesaid, one such commissioner to hold office for the term of three years beginning with the first Monday in January in the year of his appointment, and in case of any vacancy occurring in said board by resignation or otherwise shall in the same manner appoint a commissioner for the residue of the term, and may in the same manner remove any commissioner. The members of said board shall each receive the salary of three thousand dollars per year.

181 Mass. 438.
183 Mass. 89.

Board
abolished by
St. 1901, c. 168.

SECT. 2. Said board shall, as soon as may be after its appointment and annually thereafter on the first Monday of February of each year, organize by the choice of one of its members as chairman, and shall at the same meeting elect a clerk, who shall not be a member of said board, and may from time to time appoint such agents, officers and servants as it may deem necessary to carry out the purposes of this act, and may determine their duties and compensation and remove the same at pleasure. Said board shall be furnished with an office in some suitable place in the city of Boston in which the maps, plans and documents relating to its business, and to the sewers, land and other property in its charge, and records of all its doings shall be kept.

Organization.

SECT. 3. Said board shall construct, maintain and operate for the cities of Boston, Cambridge, Somerville, Malden, Chelsea, Woburn, and the towns of Stoneham, Melrose, Winchester, Arlington, Belmont, Medford, Everett and Winthrop, such main sewers and other works as shall be required for a system of sewage disposal for said cities and towns, and for the cities of Boston, Waltham and Newton, and the towns of Watertown and Brookline another such system, both of which systems shall be in substantial accordance with the plans reported and recommended by the state board of health in its report to the legislature of eighteen hundred and eighty-nine; and for that purpose may make all contracts necessary for the construction of the sewers and works aforesaid, or may where deemed advisable carry on such construction by day labor. Said board may from time to time contract with any other city or town for the extension thereto of either of said systems of sewage disposal, and for the reception and disposal of sewage therefrom.

System of
sewage dis-
posal to be
constructed,
maintained
and operated.

SECT. 4. S. Said board acting on behalf of the commonwealth may take by purchase or otherwise any lands, water-courses, rights of way or easements, and may take by purchase or otherwise or enter and use any existing sewers or parts of sewers necessary for the carrying out under the provisions of this act of the recommendations and plans of said state board of health contained in its said report. When any lands, water-courses, rights of way or easements, or any sewers or parts of sewers are so taken or entered and used in any manner other

Lands, water-
courses,
sewers, etc.,
may be taken.
Amended by
St. 1890, c. 270.
158 Mass. 526.
161 Mass. 209,
211.
166 Mass. 480.
164 Mass. 350,
368.
169 Mass. 103.
181 Mass. 438.
187 Mass. 356,
358.

Damages.

Limitation of actions.

Sewer may be carried under or over watercourses, streets, etc.
 153 Mass. 528.
 164 Mass. 1, 350.
 169 Mass. 103.
 173 Mass. 507.
 183 Mass. 307.

Streets to be restored to good order and condition.

than by purchase or agreement, said board shall within thirty days of said taking or entering and using cause to be recorded in the registry of deeds for the county or district in which such lands, watercourses, rights of way or easements, or sewers or parts of sewers lie, a description of the same as certain as is required in a common conveyance of land, with a statement of the purpose for which the same is taken or entered and used, which description shall be signed by a majority of said board; and the fee of the lands, watercourses, rights of way or easements, or sewers or parts of sewers so taken or purchased shall vest in the commonwealth, which shall pay, in the manner hereinafter described, all damages that shall be sustained by any person or corporation by reason of such taking or entering as aforesaid. Such damages to be agreed upon by said board and the person or corporation injured; and if the parties cannot agree a jury in the superior court of the county in which the property taken or damaged is situated may be had to determine the same in the same manner as a jury is had and damages are determined in the case of persons dissatisfied with the estimate of damages sustained by the laying out of ways in the city of Boston: *provided, however*, that no suit for such damages shall be brought after the expiration of two years from the date of the recording of the taking or entering as herein required.

SECT. 5. Said board may, for the purposes aforesaid, carry and conduct any sewer by it to be made and constructed under or over any watercourse, or any street, turnpike road, railroad, highway or other way in such manner as not unnecessarily to obstruct or impede travel thereon; and may enter upon and dig up any such road, street or way for the purpose of laying down sewers beneath the surface thereof and for maintaining and repairing the same; and in general may do any other acts and things necessary or convenient and proper for the purposes of this act. In entering upon and digging up any such road, street or way of public travel it shall be subject to such reasonable regulations as may be made by the mayor and aldermen or selectmen of the cities and towns respectively wherein such works shall be performed.

SECT. 6. Whenever said board shall dig up any road, street or way, as aforesaid, it shall so far as practicable restore the same to as good order and condition as the same was in when such digging commenced. And the commonwealth shall at all times indemnify and save harmless the several cities and towns within which such roads, streets or ways may be against all damages which may be recovered against them respectively, and shall reimburse to them all expenses which they shall incur by reason of any defect or want of repair in any road, street or way caused by the construction of any of said sewers, or by the maintaining or repairing of the same: *provided*, that said board shall have due and reasonable notice of all claims for such damages or injury and opportunity to make a legal defence thereto.

SECT. 7. Said board may also alter or change the course or direction of any watercourse, or may with the consent of the mayor and aldermen of cities or selectmen of towns alter or change the location or grade of any highway, town way, public street or way of travel crossed by any sewers constructed under the provisions of this act, or in which such sewers may be located.

Alteration of watercourses and ways.

SECT. 8. Said board shall at all times keep for each of said systems full, accurate and separate accounts of its receipts, expenditures, disbursements, assets and liabilities, and shall include an abstract of the same in its annual report to the general court.

Accounts.

SECT. 9. Any city or town within whose limits any main sewer shall have been constructed under the provisions of this act shall connect its local sewers with such main sewer, subject to the direction and control of said board, and any person, firm or corporation may, subject to the direction, control and regulation from time to time of said board, and subject to such terms, conditions and regulations as each city or town may prescribe, connect private drains with said main sewer.

Connection of local sewers and private drains with main sewers.

SECT. 10. Any person or persons who shall wantonly or maliciously destroy or injure any sewer or other property, held or used by said board by the authority and for the purposes of this act, shall forfeit and pay to the commonwealth three times the amount of the damages that shall be assessed therefor, to be recovered by any proper action. And every such person or persons may, on indictment and conviction of either of the wanton or malicious acts aforesaid, be punished by a fine not exceeding one thousand dollars and imprisonment not exceeding one year.

Penalties for injury to property.

SECT. 11. The state board of health shall, on the organization of the board created by this act, transfer and deliver over to said board all books, plans, maps, engineers' reports, instruments and other property acquired during the surveys and investigations relating to the systems of sewage disposal for the Mystic and Charles river valleys on which the report of the said board of health, hereinbefore referred to, was founded.

Transfer of plans, maps, etc.

SECT. 12. To meet the expenses incurred under the provisions of this act, the treasurer and receiver general shall with the approval of the governor and council issue from time to time scrip or certificates of debt in the name and behalf of the commonwealth and under its seal to an amount not exceeding five million dollars, for a term not exceeding forty years. Said scrip or certificates of debt shall be issued as registered bonds or with interest coupons attached, and shall bear interest not exceeding four per cent per annum, payable semi-annually on the first days of March and September in each year. Such scrip or certificates of debt shall be designated on the face as the Metropolitan Sewerage Loan; shall be countersigned by the governor, and shall be deemed a pledge of the faith and credit of the commonwealth redeemable at the time specified therein in the lawful

Metropolitan Sewerage Loan.

money of the United States, and shall be sold and disposed of at public auction, or in such other mode, and at such times and prices, and in such amounts and at such rate of interest not exceeding four per centum per annum as the governor and council shall deem for the best interest of the state. The treasurer and receiver general shall on issuing any of said scrip or certificates of debt establish a sinking fund, and apportion thereto from year to year an amount sufficient with its accumulations to extinguish the debt at maturity. But in such apportionment of a sinking fund the assessment shall be at the rate of one-eightieth part of the whole amount in each of the first ten years, one-sixtieth part in each of the second ten years, one-thirtieth part in each of the third ten years and the remainder equally divided in the next ten years. Any premium realized in the sale of said scrip or certificates of debt shall be applied to the payment of the interest on said loan as it accrues.

Apportionment of interest and sinking fund requirements, etc., for five years following first issue.
153 Mass. 566.
156 Mass. 361.

SECT. 13. The supreme judicial court sitting in equity shall, on the application of said board after notice to each of the cities and towns hereinbefore named, appoint three commissioners, who shall not be residents of any of the cities or towns mentioned in this act, who shall after due notice and hearing and in such manner as they shall deem just and equitable determine for each system the proportion in which each of the cities and towns hereinbefore named shall annually pay money into the treasury of the commonwealth for the term of five years next following the year of the first issue of said scrip or certificates, to meet the interest and sinking fund requirements for each of said years as estimated by said treasurer, and to meet the cost of maintenance and operation of said system for each of said years, as estimated by the said board and certified to said treasurer, and any deficiency in the amount previously paid in, as found by said treasurer, and shall return their award into said court; and when said award shall have been accepted by said court the same shall be a final and conclusive adjudication of all matters herein referred to said commissioners and shall be binding on all parties.

Apportionment for each succeeding five years.

SECT. 14. Before the expiration of said term of five years and every five years thereafter other commissioners, who shall not be residents of any of the cities or towns mentioned in this act, shall be appointed as aforesaid, who shall in such manner as they deem just and equitable determine the proportion in which each of said cities and towns in each of said systems shall annually pay money into the treasury of the commonwealth as aforesaid for the next succeeding term of five years, and shall return their award into said court; and when said award shall have been accepted by said court the same shall be a final and conclusive adjudication of all matters herein referred to said commissioners and shall be binding on all parties.

Apportionment to be assessed with state tax.
156 Mass. 361.

SECT. 15. The amount of money required each year from each such city and town to meet the interest, sinking fund requirements and cost aforesaid for that system in which it is

included for each year, and deficiency, if any, shall be estimated by said treasurer in accordance with the proportion determined as aforesaid, and shall be included in and made a part of the sum charged to such city or town, and be assessed upon it in the apportionment and assessment of its annual state tax, and said treasurer shall in each year notify each such city and town of the amount of such assessment, which amount shall be paid by the city or town into the treasury of the commonwealth at the time required for the payment and as a part of its state tax.

SECT. 16. The supreme judicial court shall have jurisdiction in equity to enforce the provisions of this act, and shall fix and determine the compensation of all commissioners appointed by said court under the provisions hereof.

Enforcement
of act and com-
pensation of
commis-
sioners.

SECT. 17. This act shall take effect upon its passage.

[Approved June 7, 1889.]

1890. — CHAPTER 94.

AN ACT TO PROVIDE THAT BONDS ISSUED FOR THE METROPOLITAN SEWERAGE LOAN SHALL BE REDEEMABLE IN GOLD OR ITS EQUIVALENT.

Be it enacted, etc., as follows :

SECTION 1. The interest and principal of the scrip or certificates of debt issued by the treasurer of the commonwealth under authority of chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, for the metropolitan sewerage loan, shall be payable, and when due shall be paid, in gold coin or its equivalent.

Scrip payable
in gold coin or
its equivalent.
1889, 439, § 12.

SECT. 2. This act shall take effect upon its passage.

[Approved March 14, 1890.]

1890. — CHAPTER 270.

AN ACT AUTHORIZING THE METROPOLITAN SEWERAGE COMMISSIONERS TO PURCHASE OR TAKE IN BEHALF OF THE COMMONWEALTH AN EASEMENT IN LANDS, WATER-COURSES AND RIGHTS OF WAY.

Be it enacted, etc., as follows :

SECTION 1. Section four of chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine is hereby amended by adding after the word "lands", in the twentieth line thereof, the words: — or if an easement or other estate less than the fee therein be specified and described in the deed of purchase, or the description and statement of taking to be recorded as aforesaid, such easement or estate therein as is so specified and described, and the, — so that said section as

Amendment to
St. 1889, c. 439,
§ 4.

Lands, water-
courses,
sewers, etc.,
may be taken.
158 Mass. 527.
161 Mass. 209,
211.
163 Mass. 386.
164 Mass. 353,
377.
166 Mass. 480.
169 Mass. 103.
173 Mass. 507.
181 Mass. 433.
187 Mass. 356,
355.

amended shall read as follows: — *Section 4.* Said board acting on behalf of the commonwealth may take by purchase or otherwise any lands, watercourses, rights of way or easements, and may take by purchase or otherwise or enter and use any existing sewers or parts of sewers necessary for the carrying out under the provisions of this act of the recommendations and plans of said state board of health contained in its said report. When any lands, watercourses, rights of way or easements, or any sewers or parts of sewers are so taken or entered and used in any manner other than by purchase or agreement, said board shall within thirty days of said taking or entering and using cause to be recorded in the registry of deeds for the county or district in which such lands, watercourses, rights of way or easements, or sewers or parts of sewers lie, a description of the same as certain as is required in a common conveyance of land, with a statement of the purpose for which the same is taken or entered and used, which description shall be signed by a majority of said board; and the fee of the lands, or if an easement or other estate less than the fee therein be specified and described in the deed of purchase, or the description and statement of taking to be recorded as aforesaid, such easement or estate therein as is so specified and described, and the watercourses, rights of way or easements, or sewers or parts of sewers so taken or purchased shall vest in the commonwealth, which shall pay, in the manner hereinafter described, all damages that shall be sustained by any person or corporation by reason of such taking or entering as aforesaid. Such damages to be agreed upon by said board and the person or corporation injured; and if the parties cannot agree a jury in the superior court of the county in which the property taken or damaged is situated may be had to determine the same in the same manner as a jury is had and damages are determined in the case of persons dissatisfied with the estimate of damages sustained by the laying out of ways in the city of Boston: *provided, however*, that no suit for such damages shall be brought after the expiration of two years from the date of the recording of the taking or entering as herein required.

SECT. 2. This act shall take effect upon its passage.

[*Approved May 5, 1890.*]

1891. — CHAPTER 192.

AN ACT TO PROVIDE FOR THE DISPOSITION OF CERTAIN MONEY RECEIVED BY THE TREASURER AND RECEIVER GENERAL OF THE COMMONWEALTH FROM THE BOARD OF METROPOLITAN SEWERAGE COMMISSIONERS.

Be it enacted, etc., as follows:

Disposition of
forfeited
money, etc.

SECTION 1. Any money which has been or may be collected or received by the treasurer and receiver general of the common-

wealth from checks deposited with the board of metropolitan sewerage commissioners by bidders for work, and by said board declared forfeited, and any and all sums collected or received by said treasurer and receiver general for breach of any condition of any contract made with said board, shall be applied to the payment of interest upon the loan issued under authority of chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, known as the metropolitan sewerage loan.

SECT. 2. This act shall take effect upon its passage.

[Approved April 11, 1891.]

1892. — CHAPTER 68.

AN ACT AUTHORIZING ADVANCES TO THE METROPOLITAN SEWERAGE COMMISSIONERS.

Be it enacted, etc., as follows :

SECTION 1. Until the completion of the systems of sewerage provided for in chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, the clerk of the board of metropolitan sewerage commissioners or such other person as said board may designate, may have advanced to him from the money in the treasury of the commonwealth known as the Metropolitan Sewerage Loan, such sums, not exceeding ten thousand dollars at any time, as the auditor may certify to be necessary to enable said board to make direct payment upon its pay rolls and other accounts. The person so designated by said board shall give a bond with sufficient sureties, to be approved by the auditor of the commonwealth, in the sum of ten thousand dollars.

Advances for
payment upon
pay rolls and
other accounts.

SECT. 2. As soon as may be after expending such advance, and in any case within thirty days from the receipt thereof, the officer who has received money of the commonwealth under the provisions of this act shall file with the auditor a statement in detail of the sums expended subsequent to the previous accounting, approved by the board, if any, authorized to supervise such expenditure, and, where it is practicable to obtain them, receipts or other like vouchers of the persons to whom the payments have been made.

Statement of
expenditures.

SECT. 3. This act shall take effect upon its passage.

[Approved March 16, 1892.]

1892. — CHAPTER 251.

AN ACT AUTHORIZING THE BOARD OF METROPOLITAN
SEWERAGE COMMISSIONERS TO SELL CERTAIN PROPERTY
TAKEN OR PURCHASED FOR SEWERAGE PURPOSES.*Be it enacted, etc., as follows :*Sale of
property not
needed for
sewer con-
struction.

SECTION 1. The board of metropolitan sewerage commissioners may from time to time, and at public or private sale as they may deem best, dispose of any property, real or personal, no longer needed for the construction of the sewer authorized by chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine and acts in amendment thereof: *provided, however*, that such sale shall not impair the right to maintain, renew and operate said sewer.

Conveyance of
real estate
subject to
easements, etc.

SECT. 2. Real estate so sold may be conveyed, subject to such easements, reservations and restrictions as said board may deem necessary to secure the maintenance, renewal and operation of said sewer, by deed duly executed by said commissioners on behalf of the commonwealth, with or without warranty.

Disposition of
proceeds of
sales.

SECT. 3. The net proceeds of such sales, after deducting all necessary expenses incurred thereby, shall be paid into the treasury of the commonwealth, and shall be credited to and form a part of the fund known as the metropolitan sewerage loan fund authorized by the act aforesaid.

SECT. 4. This act shall take effect upon its passage.

[Approved May 6, 1892.]

1894. — CHAPTER 307.

AN ACT RELATIVE TO THE MAINTENANCE AND OPERATION OF
THE METROPOLITAN SEWERAGE SYSTEM.*Be it enacted, etc., as follows :*Metropolitan
Sewerage
Loan.

SECTION 1. To meet the expenses incurred under the provisions of chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine the treasurer and receiver general shall, with the approval of the governor and council, issue from time to time scrip or certificates of debt, in the name and behalf of the commonwealth and under its seal, to an amount not exceeding five hundred thousand dollars, for a term not exceeding thirty-six years. Said scrip or certificates of debt shall be issued as registered bonds or with interest coupons attached, and shall bear interest at a rate not exceeding four per cent. per annum payable semi-annually on the first days of March and September in each year. Said interest and scrip or certificates shall be payable, and when due shall be paid, in

gold coin or its equivalent. Said scrip or certificates of debt shall be designated on their face as the Metropolitan Sewerage Loan, shall be countersigned by the governor, and shall be deemed a pledge of the faith and credit of the commonwealth, redeemable at the time specified therein in gold coin or its equivalent, and shall be sold and disposed of at public auction or in such other mode and at such times and prices and in such amounts and at such rate of interest, not exceeding four per cent. per annum, as the governor and council shall deem for the best interests of the commonwealth. Any scrip or certificates of debt issued under the provisions of this act shall be considered as an addition to and shall become a part of the loan authorized by said chapter four hundred and thirty-nine, and the sinking fund established under the provisions of said chapter shall be a sinking fund for the extinguishment of the debt authorized by this act, said fund to be increased in the following manner: —

Sinking fund.

The treasurer and receiver general shall from year to year, beginning with the year eighteen hundred and ninety-four, apportion to said sinking fund an amount sufficient with its accumulations to extinguish the debt at maturity, and in making the assessment for the increase of said sinking fund, upon the several cities and towns liable thereto, one forty-eighth part of the whole amount shall be assessed in each of the first six years, beginning with the year eighteen hundred and ninety-four; one sixtieth part in each of the next ten years, beginning with the year nineteen hundred; one thirtieth part in each of the next ten years, beginning with the year nineteen hundred and ten; and the remainder shall be equally divided in the next ten years, beginning with the year nineteen hundred and twenty. Any premium realized from the sale of said scrip or certificates of debt shall be applied to the payment of the interest on said loan as it accrues.

SECT. 2. Each of the cities and towns hereinafter named shall, in the year eighteen hundred and ninety-four and also in the year eighteen hundred and ninety-five, pay money into the treasury of the commonwealth to meet the interest and sinking fund requirements for each of said years, as estimated by said treasurer, in the following proportions, to wit: — Arlington, two and forty-five one hundredths per cent.; Belmont, one and fifty-three one hundredths per cent.; Boston, twenty and forty-five one hundredths per cent.; Cambridge, twenty-seven and eighty-seven one hundredths per cent.; Chelsea, eight and forty-six one hundredths per cent.; Everett, three and ten one hundredths per cent.; Malden, seven and forty-seven one hundredths per cent.; Medford, four and ninety-four one hundredths per cent.; Melrose, two and sixty-five one hundredths per cent.; Somerville, twelve and eighty-three one hundredths per cent.; Stoneham, one and thirty-three one hundredths per cent.; Winchester, one and ninety-nine one hundredths per cent.; Winthrop, one and thirty-two one hundredths per cent.; Woburn, three and sixty-one one hundredths per cent.

Apportionment of interest and sinking fund requirements for years 1894-1895.

Apportion-
ment of
interest, sink-
ing fund
requirements,
etc., for ensu-
ing five years.

SECT. 3. The supreme judicial court sitting in equity shall on the application of the board of metropolitan sewerage commissioners, made to said court in the year eighteen hundred and ninety-five, after notice to each of the cities and towns named in said chapter four hundred and thirty-nine, appoint three commissioners, who shall not be residents of any of the cities or towns mentioned in said chapter, who shall, after due notice and hearing and in such manner as they deem just and equitable, determine for each system established by said chapter the proportion in which each of the cities and towns therein named shall annually pay money into the treasury of the commonwealth for the term of five years next following the year eighteen hundred and ninety-five, to meet the interest and sinking fund requirements for the said five years, as estimated by said treasurer, and any deficiency in the amount previously paid in, as found by said treasurer, and shall return their award into said court; and when said award shall have been accepted by said court the same shall be a final and conclusive adjudication of all matters herein referred to said commissioners and shall be binding on all parties.

Apportion-
ment for each
succeeding
five years.

SECT. 4. Before the expiration of said term of five years, and every five years thereafter, other commissioners, who shall not be residents of any of the cities or towns mentioned in said chapter, shall be appointed as aforesaid, upon application of said board as aforesaid, who shall in such manner as they deem just and equitable determine the proportion in which each of said cities and towns in each of said systems shall annually pay money into the treasury of the commonwealth as aforesaid for the next succeeding term of five years, and shall return their award into said court; and when said award shall have been accepted by said court the same shall be a final and conclusive adjudication of all matters herein referred to said commissioners and shall be binding on all parties.

Apportion-
ment to be
assessed with
state tax.

SECT. 5. The amount of money required each year from each city and town named in said chapter four hundred and thirty-nine, to meet the interest, sinking fund requirements and cost aforesaid for that system in which in said act it is included for each year, and deficiency, if any, shall be estimated by said treasurer in accordance with the proportion determined as aforesaid, and shall be included in and made a part of the sum charged to such city or town, and be assessed upon it in the apportionment and assessment of its annual state tax, and said treasurer shall in each year notify each such city and town of the amount of such assessment, which amount shall be paid by the city or town into the treasury of the commonwealth at the time required for the payment and as a part of its state tax.

Enforcement
of act and
compensation
of commis-
sioners.
1890, 439, § 10.

SECT. 6. The supreme judicial court shall have jurisdiction in equity to enforce the provisions of this act, and shall fix and determine the compensation of all commissioners appointed by said court under the provisions hereof.

SECT. 7. This act shall take effect upon its passage.

[Approved April 25, 1894.]

1895. — CHAPTER 294.

AN ACT RELATIVE TO THE MAINTENANCE AND OPERATION
OF THE METROPOLITAN SEWERAGE SYSTEM.*Be it enacted, etc., as follows :*

SECTION 1. To meet the expenses incurred under the provisions of chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine as amended by chapter three hundred and seven of the acts of the year eighteen hundred and ninety-four, the treasurer and receiver general shall, with the approval of the governor and council, issue from time to time scrip or certificates of debt, in the name and behalf of the commonwealth and under its seal, to an amount not exceeding three hundred thousand dollars, for a term not exceeding thirty-five years. Said scrip or certificates of debt shall be issued as registered bonds or with interest coupons attached, and shall bear interest at a rate not exceeding four per cent. per annum, payable semi-annually on the first days of March and September in each year. Said interest and scrip or certificates shall be payable, and when due shall be paid, in gold coin or its equivalent. Said scrip or certificates of debt shall be designated on their face, Metropolitan Sewerage Loan, shall be countersigned by the governor, and shall be deemed a pledge of the faith and credit of the commonwealth, redeemable at the time specified therein, in gold coin or its equivalent, and shall be sold and disposed of at public auction or in such other mode and at such times and prices and in such amounts and at such rate of interest, not exceeding four per cent. per annum, as the treasurer and receiver general, with the approval of the governor and council, shall deem for the best interests of the commonwealth. Any scrip or certificates of debt issued under the provisions of this act shall be considered as an addition to and shall become a part of the loan authorized by said chapter four hundred and thirty-nine as amended by said chapter three hundred and seven, and the sinking fund established under the provisions of said chapters shall be a sinking fund for the extinguishment of the debt authorized by this act, said funds to be increased in the following manner: The treasurer and receiver general shall from year to year, beginning with the year eighteen hundred and ninety-five, apportion to said sinking fund an amount sufficient with its accumulations to extinguish the debt at maturity, and in making the assessment for the increase of said sinking fund, upon the several cities and towns liable thereto, one fortieth part of the whole amount shall be assessed in each of the first five years, beginning with the year eighteen hundred and ninety-five; one sixtieth part in each of the next ten years, beginning with the year nineteen hundred; one thirtieth part in each of the next ten years, beginning with the year nineteen hundred and ten; and the

Metropolitan
Sewerage
Loan.
188 Mass. 506.

remainder shall be equally divided in the next ten years, beginning with the year nineteen hundred and twenty. Any premium realized from the sale of said scrip or certificates of debt shall be applied to the payment of the interest on said loan as it accrues.

Apportionment of interest and sinking fund requirements for year 1895.

SECT. 2. Each of the cities and towns hereinafter named shall, in the year eighteen hundred and ninety-five, pay money into the treasury of the commonwealth to meet the interest and sinking fund requirements for said year, as estimated by said treasurer, in the following proportions, to wit: — Arlington, two and forty-five one hundredths per cent.; Belmont, one and fifty-three one hundredths per cent.; Boston, twenty and forty-five one hundredths per cent.; Cambridge, twenty-seven and eighty-seven one hundredths per cent.; Chelsea, eight and forty-six one hundredths per cent.; Everett, three and ten one hundredths per cent.; Malden, seven and forty-seven one hundredths per cent.; Medford, four and ninety-four one hundredths per cent.; Melrose, two and sixty-five one hundredths per cent.; Somerville, twelve and eighty-three one hundredths per cent.; Stoneham, one and thirty-three one hundredths per cent.; Winchester, one and ninety-one one hundredths per cent.; Winthrop, one and thirty-two one hundredths per cent.; Woburn, three and sixty-one one hundredths per cent.

Apportionment of interest, sinking fund requirements, etc., for ensuing five years.

SECT. 3. The commissioners appointed by the supreme judicial court sitting in equity, on the application of the board of metropolitan sewerage commissioners made to said court in the year eighteen hundred and ninety-five, in accordance with the provisions of chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, shall, after due notice and hearing to each of the cities and towns named in this act, in such manner as they shall deem just and equitable determine the proportion in which each of said cities and towns shall annually pay money into the treasury of the commonwealth for the term of five years next following the year eighteen hundred and ninety-five, to meet the interest and sinking fund requirements for each of said years as estimated by said treasurer, and to meet the cost of maintenance and operation for each of said years of the system of sewage disposal provided for said cities and towns, as estimated by the said board and certified to said treasurer, and any deficiency in the amount previously paid in, as found by said treasurer, and shall return their award into said court; and when said award shall have been accepted by said court the same shall be a final and conclusive adjudication of all matters herein referred to said commissioners and shall be binding on all parties.

Apportionment for each succeeding five years.

SECT. 4. Before the expiration of the said term of five years, and every five years thereafter, the supreme judicial court sitting in equity shall, on the application of the board of metropolitan sewerage commissioners, after notice to each of the cities and towns named in said chapter four hundred and thirty-nine, appoint three commissioners who shall not be residents of

any of said cities or towns, who shall in such manner as they deem just and equitable determine the proportion in which each of said cities and towns shall annually pay money into the treasury of the commonwealth as aforesaid for the next succeeding term of five years, and shall return their award into said court, and when said award shall have been accepted by said court the same shall be a final and conclusive adjudication of all matters herein referred to said commissioners and shall be binding on all parties.

SECT. 5. The amount of money required each year from each city and town named in said chapter four hundred and thirty-nine to meet the interest, sinking fund requirements and cost aforesaid for that system in which in said act it is included for each year, and deficiency, if any, shall be estimated by said treasurer in accordance with the proportion determined as aforesaid, and shall be included in and made a part of the sum charged to such city or town, and be assessed upon it in the apportionment and assessment of its annual state tax, and said treasurer shall in each year notify each such city and town of the amount of such assessment, which amount shall be paid by the city or town into the treasury of the commonwealth at the time required for the payment and as a part of its state tax.

Apportionment to be assessed with state tax.
1889, 439, § 15.

SECT. 6. The supreme judicial court shall have jurisdiction in equity to enforce the provisions of this act, and shall fix and determine the compensation of all commissioners appointed by said court under the provisions hereof.

Enforcement of act and compensation of commissioners.
1889, 439, § 16.

SECT. 7. This act shall take effect upon its passage.

[Approved April 20, 1895.]

1895. — CHAPTER 406.

AN ACT TO PROVIDE FOR A SYSTEM OF SEWAGE DISPOSAL FOR THE NEPONSET RIVER VALLEY.

Be it enacted, etc., as follows :

SECTION 1. The board of metropolitan sewerage commissioners, constituted under the authority of chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine shall, for the purpose of constructing, maintaining and operating a system of sewage disposal for the city of Boston and the towns of Dedham, Hyde Park and Milton, construct, maintain and operate such main sewers and other works as said board shall deem necessary for carrying out said purposes, in accordance with such plans as the said board or a majority thereof may approve and adopt, subject to the approval of the state board of health, may take by purchase or otherwise and use as part of said main sewers the sewer or part of sewer now or hereafter built by the city of Boston between Granite bridge,

System of sewage disposal authorized for Boston, Dedham, Hyde Park and Milton.
153 Mass. 546.
175 Mass. 299.

so-called, and Central avenue, in the Dorchester District of said Boston. Said board, for the purposes aforesaid, may make all contracts necessary for the construction of the sewers and works aforesaid, and may, where deemed advisable, carry on said construction by day labor.

Sewers may be carried under or over water-courses, streets, etc.

SECT. 2. Said board may, for the purposes aforesaid, carry and conduct any sewer by it to be made and constructed under or over any watercourse, or any street, turnpike road, railroad, highway or other way in such manner as not unnecessarily to obstruct or impede travel thereon; and may enter upon and dig up any such road, street or way for the purpose of laying sewers beneath the surface thereof and for maintaining and repairing the same; and in general may do any other acts and things necessary or convenient and proper for the purposes of this act. In entering upon or in digging up any such road, street or way used for public travel said board shall be subject to such reasonable regulations as may be made by the mayor and aldermen or selectmen of the city and towns respectively wherein such works are performed.

Streets to be restored to good order and condition.

SECT. 3. Whenever said board digs up any road, street or way, as aforesaid, it shall, so far as practicable, restore the same to as good order and condition as the same was in when such digging was commenced. And the commonwealth shall at all times indemnify and save harmless the several cities and towns within which such roads, streets or ways are situated, against all damages which may be recovered against them respectively, and shall reimburse them for all expenses which they shall incur by reason of any defect or want of repair in any road, street or way caused by the construction of any of said sewers, or by the maintaining or repairing of the same: *provided*, that said board shall have reasonable notice of all claims for such damages or injury and opportunity to make a legal defence thereto.

Alteration of watercourses and ways.

SECT. 4. Said board may also alter or change the course or direction of any watercourse, or may, with the consent of the mayor and aldermen of cities or selectmen of towns, alter or change the location or grade of any highway, town way, public street or way of travel crossed by any sewers constructed under the provisions of this act, or in which such sewers may be located.

Taking of lands, water-courses, sewers, etc.

SECT. 5. Said board, acting in behalf of the commonwealth, may take by purchase or otherwise any lands in fee and any rights or easements in lands, watercourses or ways that it deems necessary to carry out the purposes of this act, and to take any such land, right or easement in any manner other than by purchase, or to take any sewer or part of a sewer as herein-before provided, shall cause to be recorded in the registry of deeds for the county and district in which such lands, rights, easements or sewer or part of a sewer lie, a statement signed by said board describing the same as certainly as is required in a common conveyance of land, and stating that the same are taken for the purposes of this act, and the lands, rights, ease-

ments or sewer or part of a sewer so described shall vest in the commonwealth.

SECT. 6. The commonwealth shall pay, in the manner hereinafter described, all damages sustained by any person or corporation by any such taking. And if said board and such person or corporation cannot agree as to the amount so to be paid, either said board or said person or corporation may petition the superior court of the county in which the property taken or injured is situated for a jury to determine said damages; and thereupon the same proceedings shall be had as provided in case of applications for a jury by persons dissatisfied with the damages awarded for land taken for the laying out of highways in the city of Boston: *provided*, that no such application for a jury shall be made after the expiration of two years from the date of such taking.

Damages,
limitation of
actions.

SECT. 7. R. Said board may cause the sewage from its said main sewer to be discharged into the sewerage system of the city of Boston, and if so, shall pay therefor such compensation as shall be agreed upon by the engineer of said board and the city engineer of the city of Boston; and if they cannot agree upon such compensation then the same shall be determined by an arbitrator to be appointed by any justice of the supreme judicial court sitting in equity in the county of Suffolk, and the award of said arbitrator made and accepted by said court shall be final and conclusive for such term of years as shall be agreed upon by said parties, or shall be ordered by said arbitrator and approved by said court.

Discharge of
sewage regu-
lated.

Repealed by
St. 1897, c. 502,
§ 4.

SECT. 8. Said board shall at all times keep for said system full, accurate and separate accounts of its receipts, expenditures, disbursements, assets and liabilities, and shall include an abstract of the same in its annual report to the general court.

Accounts.

SECT. 9. S. The city and towns aforesaid shall connect their local sewers with such main sewers, subject to the direction and control of said board, and any person or corporation may, subject to the direction and control of said board and on such terms, conditions and regulations as the city or town may prescribe, connect private drains with said main sewers, and for the purpose of making such connections, the city or town may extend its sewers across the Neponset river in such manner as the board of harbor and land commissioners may approve, and shall, in respect to all work and structures in tide water, be subject to the provisions of chapter nineteen of the Public Statutes, and of all acts in amendment thereof or in addition thereto, so far as the same are applicable.

Connection of
local sewers
and private
drains with
main sewers.
Amended by
St. 1897, c. 80.

SECT. 10. Whoever wilfully or maliciously destroys or injures any sewer or other property held or used by said board under the authority and for the purposes of this act, shall forfeit and pay to the commonwealth three times the amount of the damages assessed therefor, to be recovered in any proper action; and upon conviction of either of the above wilful or malicious acts shall be punished by a fine not exceeding one

Penalties for
injury to
property.

Sale of
property not
needed for
construction.

thousand dollars or by imprisonment in the house of correction not exceeding one year, or by both such fine and imprisonment.

SECT. 11. Said board may from time to time, and at public or private sale as they may deem best, dispose of any property, real or personal, no longer needed for the construction, maintenance or operation of the sewers authorized by this chapter: *provided, however*, that such sale shall not impair the maintenance and operation of said sewers.

Conveyance of
real estate
subject to
easements, etc.

SECT. 12. Real estate so sold may be conveyed, subject to such easements, reservations and restrictions as said board may deem necessary to secure the maintenance, renewal and operation of said sewers, by deed duly executed by said commissioners on behalf of the commonwealth with or without warranty.

Disposition of
proceeds of
sales.

SECT. 13. The net proceeds of such sales, after deducting all necessary expenses incurred thereby, shall be paid into the treasury of the commonwealth and shall be credited to and form a part of the fund to be used in construction or maintenance of said sewers.

Disposition of
forfeited
money, etc.

SECT. 14. Any money which may be collected or received by the treasurer and receiver general of the commonwealth from checks deposited with said board by bidders for work, and by said board declared forfeited, and any sums collected or received by said treasurer and receiver general for breach of any contract made with said board, shall be applied to the payment of interest upon the loan issued under the authority of this act.

Metropolitan
Sewerage
Loan.

SECT. 15. To meet the expenses incurred under the provisions of this act the treasurer and receiver general shall with the approval of the governor and council, issue from time to time scrip or certificates of debt, in the name and behalf of the commonwealth and under its seal, to an amount not exceeding five hundred thousand dollars, for a term not exceeding forty years. Said scrip or certificates of debt shall be issued as registered bonds or with interest coupons attached, and shall bear interest not exceeding four per cent. per annum, payable semi-annually on the first days of March and September in each year. Said interest and scrip or certificates shall be payable, and when due shall be paid, in gold coin or its equivalent. Said scrip or certificates of debt shall be designated on the face thereof, Metropolitan Sewerage Loan; shall be countersigned by the governor and shall be deemed a pledge of the faith and credit of the commonwealth, redeemable at the time specified therein in gold coin or its equivalent, and shall be sold and disposed of at a public auction, or in such other mode, and at such times and prices, and in such amounts and at such rate of interest, not exceeding four per cent. per annum, as the treasurer and receiver general with the approval of the governor and council shall deem for the best interest of the commonwealth. The treasurer and receiver general shall on issuing any of said scrip or certificates of debt establish a sinking fund and appor-

tion thereto from year to year an amount sufficient with its accumulations to extinguish the debt at maturity. But in such apportionment of a sinking fund the assessment shall be at the rate of one eightieth part of the whole amount in each of the first ten years, one sixtieth part in each of the second ten years, one thirtieth part in each of the third ten years, and the remainder equally divided in the next ten years. Any premium realized in the sale of said scrip or said certificates of debt shall be applied to the payment of the interest on said loan as it accrues.

SECT. 16. The supreme judicial court sitting in equity shall, on the application of said board, after notice to the city and each of the towns hereinbefore named, appoint three commissioners, who shall not be residents of the city or of any of the towns mentioned in this act, who shall, after due notice and hearing, and in such manner as they shall deem just and equitable, determine for said system the proportion in which the city and each of the towns hereinbefore named shall annually pay money into the treasury of the commonwealth for the term of five years next following the year of the first issue of said scrip or certificates, to meet the interest and sinking fund requirements for each of said years, as estimated by said treasurer, and to meet the cost of maintenance and operation of said system for each of said years, as estimated by the said board and certified to said treasurer, and any deficiency in the amount previously paid in, as found by said treasurer. In making their award the commissioners may take into consideration the amount of the use of the sewers by said city or towns respectively, the population and valuation thereof, and also the extent, if any, to which said main sewers relieve the city or towns respectively of the necessity of constructing local sewers at their own charge, and any other considerations as may seem to them just and equitable, and shall return their award into said court; and when said award shall have been accepted by said court the same shall be a final and conclusive adjudication of all matters herein referred to said commissioners, and shall be binding on all parties.

Apportionment of interest, sinking fund requirements, etc., for ensuing five years. 170 Mass. 111, 113.

SECT. 17. Before the expiration of said term of five years, and every five years thereafter, other commissioners, who shall not be residents of the city or of any of the towns mentioned in this act, shall be appointed as aforesaid, who shall in the manner above prescribed determine the proportion in which said city and each of said towns in said system shall annually pay money into the treasury of the commonwealth as aforesaid for the next succeeding term of five years, and shall return their award into said court; and when said award shall have been accepted by said court the same shall be a final and conclusive adjudication of all matters herein referred to said commissioners, and shall be binding on all parties.

Apportionment for each succeeding five years.

SECT. 18. The amount of money required each year from said city and each of said towns to meet the interest, sinking

Apportionment to be assessed with state tax.

fund requirements and cost aforesaid for each year and deficiency, if any, shall be estimated by said treasurer in accordance with the proportion determined as aforesaid, and shall be included in and made a part of the sum charged to such city or town, and be assessed upon it in the apportionment and assessment of its annual state tax; and said treasurer shall in each year notify such city and each of said towns of the amount of such assessment, which amount shall be paid by the city or town into the treasury of the commonwealth at the time required for the payment and as a part of its state tax.

Advances for
payment upon
pay rolls and
other accounts.

SECT. 19. Until the completion of the system of sewerage provided for in this chapter the clerk of the board of metropolitan sewerage commissioners, or such other person as said board may designate, may have advanced to him from the money in the treasury of the commonwealth received from the loan heretofore authorized, such sums, not exceeding ten thousand dollars at any time, as the auditor may certify to be necessary to enable said board to make direct payment upon its pay rolls and other accounts. The person so designated by said board shall give a bond with sufficient sureties, to be approved by the auditor of the commonwealth, in the sum of ten thousand dollars.

Statement of
expenditures.

SECT. 20. As soon as may be after expending such advance, and in any case within thirty days from the receipt thereof, the officer who has received money of the commonwealth under the provisions of the preceding section shall file with the said auditor a statement in detail of the sums expended subsequent to the previous accounting, approved by said board, and, where it is practicable to obtain them, receipts or other like vouchers of the persons to whom the payments have been made.

Enforcement
of act and
compensation
of commis-
sioners.

SECT. 21. The supreme judicial court shall have jurisdiction in equity to enforce the provisions of this act, and shall fix and determine the compensation of all commissioners appointed by said court under the provisions hereof.

SECT. 22. This act shall take effect upon its passage.

[Approved May 24, 1895.]

1896. — CHAPTER 414.

AN ACT TO PROVIDE FOR THE ADDITION OF A PORTION OF
THE TOWN OF WAKEFIELD TO THE METROPOLITAN SEW-
ERAGE SYSTEM.

Be it enacted, etc., as follows:

Part of Wake-
field added to
north metro-
politan dis-
trict.

SECTION 1. The territory comprising the villages of Greenwood and Boyntonville in the town of Wakefield is hereby added to the north metropolitan sewerage district created by chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, entitled "An Act to provide

for the building, maintenance and operation of a system of sewage disposal for the Mystic and Charles river valleys". In becoming a part of the metropolitan system said addition shall be subject to the provisions and conform with the requirements of the aforesaid act and amendments thereto, except as herein provided, and the proportionate liability incurred by said addition shall be assumed by the town of Wakefield. Any authority granted to other municipalities by said act or by amendments thereto is hereby also vested in said town of Wakefield, but limited in application to the territory comprising said addition.

SECT. 2. The metropolitan sewerage commissioners shall provide an outlet at the Wakefield town line in Greenwood street for the sewage of said addition, and, acting on behalf of the commonwealth, shall take by purchase or otherwise of the town of Melrose the present sewer constructed by said town through Wyoming avenue, Berwick, Grove, Myrtle, Essex and Tremont streets to Lake avenue, in said Melrose, and shall pay the cost of the construction of the same; and the same shall become and is hereby made a part of the main trunk line of sewers belonging to the metropolitan system; and the metropolitan sewerage commissioners shall at once extend the said main sewer line to the Wakefield town line by constructing a main sewer through Tremont, Melrose, Belmont, Franklin and Greenwood streets in said Melrose; and the said town of Melrose shall have the right to maintain and make house connections with the said main sewers and connect lateral sewers therewith in the same manner as with the present sewers of the town, under the direction of the metropolitan sewerage commissioners. In providing said outlet and in receiving sewage from said addition and said town of Melrose, and in any action in relation thereto, and for the purpose of taking, constructing and maintaining this additional main line of sewer, the said board of sewerage commissioners, acting on behalf of the commonwealth, shall have and exercise all the authority conferred upon them by chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine and by amendments thereto, regarding the original system or anything relating thereto; and all the provisions of said chapter are hereby made applicable to this additional taking and construction, except as herein otherwise provided.

Outlet to be provided for sewage of part of Wakefield.

SECT. 3. S. To meet the expenses incurred under the provisions of this act the treasurer and receiver general shall, with the approval of the governor and council, issue scrip or certificates of debt, in the name and behalf of the commonwealth and under its seal, to an amount not exceeding thirty thousand dollars, for a term not exceeding thirty-four years. Said scrip or certificates of debt shall be issued as registered bonds or with interest coupons attached, and shall bear interest at a rate not exceeding four per cent. per annum, payable semi-annually on the first days of March and September in each year. Said interest and scrip or certificates shall be payable, and when due

Metropolitan Sewerage Loan.

Amended by St. 1897, c. 88.

shall be paid, in gold coin or its equivalent. Said scrip or certificates of debt shall be designated on their face, Metropolitan Sewerage Loan, shall be countersigned by the governor and shall be deemed a pledge of the faith and credit of the commonwealth, redeemable at the time specified therein, in gold coin or its equivalent, and shall be sold or disposed of at public auction or in such other mode and at such times and prices and in such amounts and at such rate of interest, not exceeding four per cent. per annum, as the treasurer and receiver general with the approval of the governor and council shall deem for the best interests of the commonwealth. Any scrip or certificates of debt issued under the provisions of this act shall be considered as an addition to and shall become a part of the loan authorized by chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, as amended by chapter three hundred and seven of the acts of the year eighteen hundred and ninety-four, and by chapter two hundred and ninety-four of the acts of the year eighteen hundred and ninety-five; and the sinking fund established under the provisions of said chapters shall be a sinking fund for the extinguishment of the debt authorized by this act, said funds to be increased in the following manner: — The treasurer and receiver general shall from year to year, beginning with the year eighteen hundred and ninety-six, apportion to said sinking fund an amount sufficient with its accumulations to extinguish the debt at maturity; and in making the assessment for the increase of said sinking fund upon the several cities and towns liable thereto, one thirty second part of the whole amount shall be assessed in each of the first four years, beginning with the year eighteen hundred and ninety-six; one sixtieth part in each of the next ten years, beginning with the year nineteen hundred; one thirtieth part in each of the ten years, beginning with the year nineteen hundred and ten; and the remainder shall be equally divided in the next ten years, beginning with the year nineteen hundred and twenty. Any premium realized from the sale of said scrip or certificates of debt shall be applied to the payment of the interest on said loan as it accrues.

Inclusion of
Wakefield in
apportion-
ment of
interest and
sinking fund
requirements,
etc.

SECT. 4. The commissioners heretofore appointed by the supreme judicial court, and now sitting, under the provisions of section fourteen of chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine for the purposes specified in said section, and any other commissioners hereafter appointed for said purposes, shall include the town of Wakefield among the cities and towns whose proportions are to be determined as provided in said section, and the interest and sinking fund requirements of the moneys expended in acquiring the sewer already constructed and in constructing the portion of the sewerage system as provided for in this act, and the cost of maintenance and operation thereof, shall be deemed a part of the interest, sinking fund requirements and costs

specified in section fifteen of said chapter four hundred and thirty-nine, and shall be paid as provided for in said section.

SECT. 5. This act shall take effect upon its passage.

[Approved May 16, 1896.]

1897. — CHAPTER 80.

AN ACT TO PROVIDE FOR EXTENSIONS OF THE NEPONSET VALLEY SEWER INTO THE TOWN OF MILTON.

Be it enacted, etc., as follows :

SECTION 1. Section nine of chapter four hundred and six of the acts of the year eighteen hundred and ninety-five is hereby amended by striking out the whole of said section and inserting in place thereof the following: — *Section 9.* The city and towns aforesaid shall connect their local sewers with such main sewers, subject to the direction and control of said board as to the methods and places of making said connections; and any person or corporation may, subject to the direction and control of said board and on such terms, conditions and regulations as the city or town may prescribe, connect the private drains with said main sewers; and for the purpose of enabling the town of Milton to make such connections the said board shall extend said main sewers from Boston across the Neponset river to and into the town of Milton, at the following places, to wit: — At or near Granite avenue, at or near Adams street in Milton, at or near Central avenue, at or near Blue Hill avenue, and at such other places as said board may deem reasonable, such extensions to be made in such manner as the board of harbor and land commissioners may approve, and, in respect of all work and structures in tide water, subject to the provisions of chapter nineteen of the Public Statutes and of all acts in amendment thereof or in addition thereto, so far as the same are applicable.

Amendment to St. 1895, c. 406, § 9.

Connection of local sewers and private drains with main sewers.

SECT. 2. This act shall take effect upon its passage.

[Approved February 18, 1897.]

1897. — CHAPTER 81.

AN ACT AUTHORIZING ADVANCES TO THE METROPOLITAN SEWERAGE COMMISSIONERS.

Be it enacted, etc., as follows :

SECTION 1. Upon the completion of the systems of sewerage provided for in chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine and in chapter four hundred and six of the acts of the year eighteen hundred and ninety-five the clerk of the board of metropolitan sewerage commissioners, or such other person as said board may designate, may have advanced to him from the money in the treasury of

Advances for payment upon pay rolls and other accounts.

the commonwealth such sums, not exceeding five thousand dollars at any time, from the appropriation for maintaining the north metropolitan system of sewage disposal, and a similar amount from the appropriation for maintaining the Charles river system of sewage disposal, as the auditor may certify to be necessary to enable said board to make direct payment upon its pay rolls and other accounts. The person so designated by said board shall give a bond with sufficient sureties, to be approved by the auditor of the commonwealth, in the sum of ten thousand dollars.

Statement of
expenditures.

SECT. 2. As soon as may be after expending such advance, and in any case within thirty days from the receipt thereof, the officer who has received money of the commonwealth under the provisions of this act shall file with the auditor a statement in detail of the sums expended subsequent to the previous accounting, approved by the board, and, where it is practicable to obtain them, receipts or other like vouchers of the persons to whom the payments have been made.

SECT. 3. This act shall take effect upon its passage.

[Approved February 18, 1897.]

1897.—CHAPTER 83.

AN ACT RELATIVE TO THE EXPENSES INCURRED UNDER THE ACT TO PROVIDE FOR A SYSTEM OF SEWAGE DIS- POSAL FOR THE NEPONSET RIVER VALLEY.

Be it enacted, etc., as follows:

Metropolitan
Sewerage
Loan.

SECTION 1. To meet the expenses incurred under the provisions of chapter four hundred and six of the acts of the year eighteen hundred and ninety-five the treasurer and receiver general shall, with the approval of the governor and council, issue from time to time scrip or certificates of debt, in the name and behalf of the commonwealth and under its seal, to an amount not exceeding three hundred thousand dollars, for a term not exceeding forty years. Said scrip or certificates of debt shall be issued as registered bonds or with interest coupons attached, and shall bear interest at a rate not exceeding four per cent. per annum, payable semi-annually on the first days of March and September in each year. Said interest and scrip or certificates shall be payable, and when due shall be paid, in gold coin or its equivalent. Said scrip or certificates of debt shall be designated on their face as the Metropolitan Sewerage Loan, shall be countersigned by the governor, and shall be deemed a pledge of the faith and credit of the commonwealth, redeemable at the time specified therein in gold coin or its equivalent, and shall be sold and disposed of at public auction, or in such other mode and at such times and prices and in such amounts and at such rate of interest, not exceeding four per

cent. per annum, as the governor and council shall deem for the best interests of the commonwealth. Any scrip or certificates of debt issued under the provisions of this act shall be considered as an addition to and shall become a part of the loan authorized by said chapter four hundred and six, and the sinking fund established under the provisions of said chapter shall be a sinking fund for the extinguishment of the debt authorized by this act, said fund to be increased in the following manner: — The treasurer and receiver general shall from year to year, beginning with the year eighteen hundred and ninety-six, apportion to said sinking fund an amount sufficient with its accumulations to extinguish the debt at maturity, and in making the assessment for the increase of said sinking fund, upon the several cities and towns liable thereto, one fortieth part of the whole amount shall be assessed in each of the first five years, beginning with the year eighteen hundred and ninety-six; one sixtieth part in each of the next ten years, beginning with the year nineteen hundred and one; one thirtieth part in each of the next ten years, beginning with the year nineteen hundred and eleven; and the remainder shall be equally divided in the next ten years, beginning with the year nineteen hundred and twenty-one. Any premium realized from the sale of said scrip or certificates of debt shall be applied to the payment of the interest on said loan as it accrues. The proportions applicable to the several cities and towns in this system, contained in a report on file in the office of the clerk of the supreme judicial court for the county of Suffolk, shall, when said report has been accepted by said court, become and be the proportions used in assessing the interest and sinking fund requirements, and also the cost of maintenance and operation for the period between the years eighteen hundred and ninety-six and nineteen hundred, both inclusive.

SECT. 2. The supreme judicial court sitting in equity shall on the application of the board of metropolitan sewerage commissioners, made to said court in the year nineteen hundred, after notice to each of the cities and towns named in said chapter four hundred and six, appoint three commissioners, who shall not be residents of any of the cities or towns mentioned in said chapter, who shall, after due notice and hearing and in such manner as they deem just and equitable, determine for said system established by said chapter the proportion in which each of the cities and towns therein named shall annually pay money into the treasury of the commonwealth for the term of five years next following the year nineteen hundred, to meet the interest and sinking fund requirements for the said five years, as estimated by said treasurer, and any deficiency in the amount previously paid in, as found by said treasurer. In making their award the commissioners may take into consideration the extent of the use of the sewers by said city or towns respectively, the population and valuation thereof, and also the extent, if any, to which said main sewers relieve the city or

Apportionment of interest, sinking fund requirements, etc., for years 1900-1905.

towns respectively of the necessity of constructing local sewers at their own charge, and any other considerations which may seem to them just and equitable, and shall return their award into said court; and when said award shall have been accepted by said court the same shall be a final and conclusive adjudication of all matters herein referred to said commissioners, and shall be binding on all parties.

Apportionment for each succeeding five years.
1895, 406, § 17.

SECT. 3. Before the expiration of said term of five years, and every five years thereafter, other commissioners, who shall not be residents of any of the cities or towns mentioned in said chapter, shall be appointed as aforesaid, upon application of said board as aforesaid, who shall in such manner as they deem just and equitable determine the proportion in which each of said cities and towns in each of said systems shall annually pay money into the treasury of the commonwealth as aforesaid for the next succeeding term of five years, and shall return their award into said court; and when said award shall have been accepted by said court the same shall be a final and conclusive adjudication of all matters herein referred to said commissioners, and shall be binding on all parties.

Apportionment to be assessed with state tax.
1895, 406, § 18.

SECT. 4. The amount of money required each year from each city and town named in said chapter four hundred and six, to meet the interest, sinking fund requirements and cost aforesaid, and deficiency, if any, shall be estimated by said treasurer in accordance with the proportion determined as aforesaid, and shall be included in and made a part of the sum charged to such city or town and be assessed upon it in the apportionment and assessment of its annual state tax, and said treasurer shall in each year notify each such city and town of the amount of such assessment, which amount shall be paid by the city or town into the treasury of the commonwealth at the time required for the payment and as a part of its state tax.

Enforcement of act and compensation of commissioners.

SECT. 5. The supreme judicial court shall have jurisdiction in equity to enforce the provisions of this act, and shall fix and determine the compensation of all commissioners appointed by said court under the provisions hereof.

SECT. 6. This act shall take effect upon its passage.

[Approved February 18, 1897.]

1897. — CHAPTER 88.

AN ACT RELATIVE TO THE EXPENSES INCURRED UNDER THE ACT TO PROVIDE FOR THE ADDITION OF A PORTION OF THE TOWN OF WAKEFIELD TO THE METROPOLITAN SEWERAGE SYSTEM.

Be it enacted, etc., as follows :

Amendment to St. 1896, c. 414, § 3.

SECTION 1. Section three of chapter four hundred and fourteen of the acts of the year eighteen hundred and ninety-six is hereby amended by inserting in the sixth line of said section,

after the word "thirty", the word:—five,—so as to read as follows:—*Section 3.* To meet the expenses incurred under the provisions of this act the treasurer and receiver general shall, with the approval of the governor and council, issue scrip or certificates of debt, in the name and behalf of the commonwealth and under its seal, to an amount not exceeding thirty-five thousand dollars, for a term not exceeding thirty-four years. Said scrip or certificates of debt shall be issued as registered bonds or with interest coupons attached, and shall bear interest at a rate not exceeding four per cent. per annum, payable semi-annually on the first days of March and September in each year. Said interest and scrip or certificates shall be payable, and when due shall be paid, in gold coin or its equivalent. Said scrip or certificates of debt shall be designated on their face, Metropolitan Sewerage Loan, shall be countersigned by the governor and shall be deemed a pledge of the faith and credit of the commonwealth, redeemable at the time specified therein, in gold coin or its equivalent, and shall be sold and disposed of at public auction or in such other mode and at such times and prices and in such amounts and at such rate of interest, not exceeding four per cent. per annum, as the treasurer and receiver general with the approval of the governor and council shall deem for the best interests of the commonwealth. Any scrip or certificates of debt issued under the provisions of this act shall be considered as an addition to and shall become a part of the loan authorized by chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, as amended by chapter three hundred and seven of the acts of the year eighteen hundred and ninety-four, and by chapter two hundred and ninety-four of the acts of the year eighteen hundred and ninety-five; and the sinking fund established under the provisions of said chapters shall be a sinking fund for the extinguishment of the debt authorized by this act, said funds to be increased in the following manner:—The treasurer and receiver general shall from year to year, beginning with the year eighteen hundred and ninety-six, apportion to said sinking fund an amount sufficient with its accumulations to extinguish the debt at maturity; and in making the assessment for the increase of said sinking fund upon the several cities and towns liable thereto, one thirty-second part of the whole amount shall be assessed in each of the first four years, beginning with the year eighteen hundred and ninety-six; one sixtieth part in each of the next ten years, beginning with the year nineteen hundred; one thirtieth part in each of the next ten years, beginning with the year nineteen hundred and ten; and the remainder shall be equally divided in the next ten years, beginning with the year nineteen hundred and twenty. Any premium realized from the sale of said scrip or certificates of debt shall be applied to the payment of the interest on said loan as it accrues.

SECT. 2. This act shall take effect upon its passage.

[Approved February 18, 1897.]

Metropolitan
Sewerage
Loan.

1897. — CHAPTER 436.

AN ACT TO PROVIDE AN ADDITIONAL OUTLET FOR THE SEWAGE
OF THE TOWN OF STONEHAM.*Be it enacted, etc., as follows :*

Construction
of branch
sewer as outlet
for Stoneham
sewage.

SECTION 1. The metropolitan sewerage commissioners are hereby authorized and instructed to cause to be constructed a branch sewer connecting with the system of sewers built, or to be built, under the direction of said commissioners in the town of Melrose, which will extend to the line between Melrose and Stoneham and reach said line in Franklin street; said branch sewer to serve when necessary as an outlet for the sewage of the town of Stoneham at that point. The town of Melrose shall have the right to make and maintain house connections with said branch sewer and connect lateral sewers therewith, in the same manner as with the present sewers of said town, under the direction of said commissioners: *provided, however*, that for the purpose of assessment and taxation said sewer shall be treated as a local sewer of said town of Melrose, and assessments shall be made therefor by said town according to such scheme or plan as may be adopted by said town for its local sewers, and such sums as may be assessed therefor shall be paid by the treasurer of said town into the treasury of the commonwealth, and shall be credited to and form a part of the fund known as the Metropolitan Sewerage Loan Fund, authorized by chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine and acts in amendment thereof.

Powers and
duties of com-
missioners.

SECT. 2. In providing said outlet for the sewage of the town of Stoneham and in receiving sewage from said town, and in any action relating thereto, and for the purpose of taking, constructing and maintaining said branch sewer, said commissioners, acting on behalf of the commonwealth, shall have and exercise all the authority conferred upon them by chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, and by acts in amendment thereof, regarding the original system or anything relating thereto; and all the provisions of said chapter are hereby made applicable to this additional taking and construction, except as otherwise herein provided.

Metropolitan
Sewerage
Loan.

SECT. 3. To meet the expenses incurred under the provisions of this act the treasurer and receiver general shall, with the approval of the governor and council, issue scrip or certificates of debt, in the name and behalf of the commonwealth and under its seal, to an amount not exceeding ten thousand dollars, for a term not exceeding thirty-four years. All the provisions of section three of chapter four hundred and fourteen of the acts of the year eighteen hundred and ninety-six relative to the indebtedness authorized to be incurred by said chapter shall

apply to the indebtedness authorized by this section, in the same manner as if said provisions had been inserted at length in this act.

SECT. 4. The interest and sinking fund requirements of the moneys expended in constructing the branch sewer provided for in this act, and the cost and maintenance thereof, shall be deemed a part of the interest, sinking fund requirements and costs specified in section fifteen of chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, and shall be paid as provided for in said section.

SECT. 5. This act shall take effect upon its passage.

[Approved May 26, 1897.]

Payment of
construction,
cost and
maintenance.

1897. — CHAPTER 502.

AN ACT RELATIVE TO THE CHARLES RIVER SEWERAGE SYSTEM AND THE NEPONSET SEWERAGE SYSTEM.

Be it enacted, etc., as follows :

SECTION 1. The board of metropolitan sewerage commissioners, constituted under the authority of chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, shall connect the Charles river sewerage system for the disposal of sewage of the Charles river sewerage district, consisting of the cities of Waltham and Newton, the towns of Watertown and Brookline, and a part of the city of Boston, with the sewer of the city of Boston, at the corner of Gainsborough street and Huntington avenue in said city of Boston ; and shall connect the Neponset sewerage system for the disposal of the sewage of the Neponset sewerage district, consisting of the towns of Dedham, Hyde Park, Milton, Westwood and a part of the city of Boston, with the sewers of the city of Boston, at or near Granite bridge ; and the city of Boston shall discharge the sewage from said systems through its sewers and other works into the water at Moon island.

Connection of
Charles river
and Neponset
sewerage
systems with
sewers of
Boston.

SECT. 2. The commonwealth shall pay to the city of Boston for the use of its sewer and sewerage works and discharge of the sewage aforesaid, such sum for the years eighteen hundred and ninety-six and eighteen hundred and ninety-seven and every year thereafter until other provision for the discharge of said sewage and payment therefor shall have been made by the legislature for said system as shall be agreed upon by the mayor of said city of Boston and board of metropolitan sewerage commissioners.

Boston to be
paid for use of
sewer, etc.

SECT. 3. If said mayor and board of metropolitan sewerage commissioners cannot agree upon the sum to be paid for either of said years as aforesaid, the supreme judicial court sitting in equity shall, upon application of said mayor or said board, appoint three commissioners, who shall not be residents

Commis-
sioner to be
appointed in
case of dis-
agreement.

of any of the cities or towns in said metropolitan sewerage district, who shall, after due notice and hearing, determine the sum to be so paid for such year to said city of Boston for the use of its sewers and sewerage works and discharge of sewage as aforesaid. The award of said commissioners or a majority thereof shall be returned into said court, and when accepted by the court shall be final and conclusive for such year.

Repeal of
1893, 406, § 7.

SECT. 4. Section seven of chapter four hundred and six of the acts of the year eighteen hundred and ninety-five is hereby repealed.

SECT. 5. This act shall take effect upon its passage.

[Approved June 10, 1897.]

1897. — CHAPTER 520.

AN ACT TO PROVIDE FOR THE ADDITION OF A PORTION OF THE TOWN OF LEXINGTON TO THE METROPOLITAN SEWERAGE SYSTEM.

Be it enacted, etc., as follows :

Addition of
part of Lex-
ington to north
metropolitan
sewerage
district.

SECTION 1. The territory comprising the villages of Centre and East Lexington, in the town of Lexington, is hereby added to the north metropolitan sewerage district, created by chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, entitled, "An Act to provide for the building, maintenance and operation of a system of sewage disposal for the Mystic and Charles river valleys." In becoming a part of the metropolitan system said addition shall be subject to the provisions and shall conform to the requirements of the aforesaid act and of acts in amendment thereof and in addition thereto, except as herein provided, and the proportionate liability incurred by said addition shall be assumed by the town of Lexington. Any authority granted to other municipalities by said act or by acts in amendment thereof and in addition thereto is hereby also vested in said town of Lexington, but limited in application to the territory comprising said addition.

Provision for
outlet for Lex-
ington sewage.
1889, 439, § 4.

SECT. 2. The metropolitan sewerage commissioners shall provide an outlet at the Lexington town line in or near Massachusetts avenue for the sewage of said addition, and, acting on behalf of the commonwealth, shall take by purchase or otherwise of the town of Arlington the present sewer constructed by said town through Decatur street, private land, Coral street, private land, Franklin street, Lewis avenue, Medford, Chestnut and Mystic streets and Massachusetts avenue to Lowell street in said Arlington, and shall pay the town of Arlington the cost of the same, less the proportion of the cost assessed on the abutting property; and the same shall become and is hereby made a part of the main trunk line of sewers belonging to the metropolitan system.

SECT. 3. The metropolitan sewerage commissioners shall at once extend the said main sewer line to the Lexington town line by constructing a main sewer through Massachusetts avenue, or through such streets, ways or private lands in said Arlington as the metropolitan sewerage commissioners may elect, the end of said sewer to be at or near the point where Massachusetts avenue crosses the Lexington and Arlington town line: *provided, however*, that for the purpose of assessment and taxation said extension of the main sewer shall be treated as a local sewer of said town of Arlington, and assessments shall be made therefor by said town according to such scheme or plan as may be adopted by said town for its local sewers, and such sums as may be assessed therefor shall be paid by the treasurer of said town into the treasury of the commonwealth and shall be credited to and form a part of the fund known as the Metropolitan Sewerage Loan Fund, authorized by chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine and by acts in amendment thereof and in addition thereto.

Extension of
main sewer
line in Arlington.

SECT. 4. Whenever said portion of the sewer in Massachusetts avenue shall be insufficient to accommodate the town of Lexington and the portion of the town of Arlington using the same, the metropolitan sewerage commissioners shall construct a new sewer in the valley of Mill or Sucker brook, in such a location as shall accommodate all portions of said valley.

Construction
of new sewer
in Mill or
Sucker brook.

SECT. 5. The town of Arlington and any persons and corporations may make connections with any sewers acquired or constructed by the board of metropolitan sewerage commissioners under the authority of this act, subject to the control and under the direction of said board.

Connections
with sewers.

SECT. 6. In providing said outlets and in receiving sewage from said addition and said town of Arlington, and in any action in relation thereto, and for the purpose of taking, constructing and maintaining said additional main lines of sewer, the said board of sewerage commissioners, acting on behalf of the commonwealth, shall have and exercise all the authority conferred upon them by chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine and by acts in amendment thereof and in addition thereto regarding the original system or anything relating thereto; and all the provisions of said chapter are hereby made applicable to this additional taking and construction, except as herein otherwise provided.

Powers and
duties of com-
missioners.

SECT. 7. To meet the expenses incurred under the provisions of this act the treasurer and receiver general shall, with the approval of the governor and council, issue scrip or certificates of debt, in the name and behalf of the commonwealth and under its seal, to an amount not exceeding seventy thousand dollars, for a term not exceeding thirty-four years. Said scrip or certificates of debt shall be issued as registered bonds or with interest coupons attached, and shall bear interest at a rate not exceeding four per cent. per annum, payable semi-annually

Metropolitan
Sewerage
Loan.
1889, 439, § 12.

on the first days of March and September in each year. Said interest and scrip or certificates shall be payable, and when due shall be paid, in gold coin or its equivalent. Said scrip or certificates of debt shall be designated on their face, Metropolitan Sewerage Loan, shall be countersigned by the governor, and shall be deemed a pledge of the faith and credit of the commonwealth, redeemable at the time specified therein, in gold coin or its equivalent, and shall be sold and disposed of at public auction or in such other mode and at such times and prices and in such amounts and at such rate of interest, not exceeding four per cent. per annum, as the treasurer and receiver general with the approval of the governor and council shall deem for the best interests of the commonwealth. Any scrip or certificates of debt issued under the provisions of this act shall be considered as an addition to and shall become a part of the loan authorized by chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, as amended by chapter three hundred and seven of the acts of the year eighteen hundred and ninety-four, and by chapter two hundred and ninety-four of the acts of the year eighteen hundred and ninety-five.

Payment of
construction,
maintenance
and operation.
1889, 439, § 15.

SECT. 8. The interest and sinking fund requirements of the moneys expended in acquiring the sewer already constructed and in constructing the portion of the sewerage system as provided for in this act, and the cost of maintenance and operation thereof, shall be deemed and paid as a part of the interest, sinking fund requirements and costs specified in section fifteen of said chapter four hundred and thirty-nine, and the sinking fund established under the provisions of said chapters shall be a sinking fund for the extinguishment of the debt authorized by this act, said funds to be increased in the following manner:—The treasurer and receiver general shall from year to year, beginning with the year eighteen hundred and ninety-seven, apportion to said sinking fund an amount sufficient with its accumulations to extinguish the debt at maturity; and in making the assessment for the increase of said sinking fund upon the several cities and towns liable thereto, one thirty-second part of the whole amount shall be assessed in each of the first four years, beginning with the year eighteen hundred and ninety-seven, one sixtieth part in each of the next ten years, beginning with the year nineteen hundred, one thirtieth part in each of the next ten years, beginning with the year nineteen hundred and ten, and the remainder shall be equally divided in the next ten years, beginning with the year nineteen hundred and twenty. Any premium realized from the sales of said scrip or certificates of debt shall be applied to the payment of the interest on said loan as it accrues.

Lexington to
be included in
apportion-
ment of
interest, sink-
ing fund
requirements,
etc.

SECT. 9. The commissioners to be appointed by the supreme judicial court, under the provisions of section fourteen of chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, for the purposes specified in

said section, and any other commissioners thereafter appointed for said purposes, shall include the town of Lexington among the cities and towns whose proportions are to be determined as provided in said section.

SECT. 10. The board of metropolitan sewerage commissioners, until the town of Lexington has been included in a finding of commissioners appointed by the supreme judicial court, shall each year determine the amount to be paid by said town in that year as its fair share of the interest, sinking fund requirements, and cost of maintenance and operation of said north metropolitan sewerage system, and the same shall be certified by the treasurer and receiver general and paid by said town as provided for payments of proportional parts of such interest, sinking fund requirements and costs by the other cities and towns in said district: *provided, however*, that no part of the cost for maintenance shall be assessed upon said town until its sewers are connected with the north metropolitan sewerage system as provided herein.

Determination
of amount to be
paid until
apportion-
ment.

SECT. 11. This act shall take effect upon its acceptance by vote of a majority of the legal voters of said town of Lexington present and voting thereon at a legal meeting called for that purpose within one year from the date of its passage.¹

Acceptance of
act.

[Approved June 11, 1897.]

1898. — CHAPTER 180.

AN ACT RELATIVE TO THE EXPENSES INCURRED UNDER THE ACT
TO PROVIDE FOR A SYSTEM OF SEWAGE DISPOSAL FOR THE
NEPONSET RIVER VALLEY.

Be it enacted, etc., as follows:

SECTION 1. To meet the expenses incurred under the provisions of chapter four hundred and six of the acts of the year eighteen hundred and ninety-five and acts in amendment thereof the treasurer and receiver general shall, with the approval of the governor and council, issue from time to time scrip or certificates of debt, in the name and behalf of the commonwealth and under its seal, to an amount not exceeding thirty-five thousand dollars for a term not exceeding thirty-seven years. Said scrip or certificates of debt shall be issued as registered bonds or with interest coupons attached, and shall bear interest at a rate not exceeding four per cent. per annum, payable semi-annually on the first days of March and September in each year. Said interest and scrip or certificates shall be payable, and when due shall be paid, in gold coin or its equivalent. Said scrip or certificates of debt shall be designated on their face as the Metropolitan Sewerage Loan, shall be countersigned by the governor, and shall be deemed a pledge of the faith and credit

Metropolitan
Sewerage
Loan.

¹ Accepted February 5, 1898.

of the commonwealth, redeemable at the time specified therein in gold coin or its equivalent, and shall be sold and disposed of at public auction or in such other mode and at such times and prices and in such amounts and at such rate of interest, not exceeding four per cent. per annum, as the governor and council shall deem for the best interests of the commonwealth. Any scrip or certificates of debt issued under the provisions of this act shall be considered as an addition to and shall become a part of the loan authorized by said chapter four hundred and six, and the sinking fund established under the provisions of said chapter shall be a sinking fund for the extinguishment of the debt authorized by this act, said fund to be increased in the following manner:— The treasurer and receiver general shall from year to year, beginning with the year eighteen hundred and ninety-eight, apportion to said sinking fund an amount sufficient with its accumulations to extinguish the debt at maturity, and in making the assessment for the increase of said sinking fund upon the several cities and towns liable thereto, one fifty-sixth part of the whole amount shall be assessed in each of the first seven years, beginning with the year eighteen hundred and ninety-eight; one sixtieth part in each of the next ten years, beginning with the year nineteen hundred and five; one thirtieth part in each of the next ten years, beginning with the year nineteen hundred and fifteen; and the remainder shall be equally divided in the remaining years, beginning with the year nineteen hundred and twenty-five. Any premium realized from the sale of said scrip or certificates of debt shall be applied to the payment of the interest on said loan as it accrues.

Apportionment of interest and sinking fund requirements for years 1898, 1899, and 1900.

SECT. 2. Each of the cities and towns hereinafter named shall in the years eighteen hundred and ninety-eight, eighteen hundred and ninety-nine and nineteen hundred pay money into the treasury of the commonwealth to meet the interest and sinking fund requirements for each of said years, as estimated by said treasurer, in the following proportions, to wit:— Boston, twenty-three and twenty-eight one hundredths per cent.; Dedham, thirteen and fifty-two one hundredths per cent.; Hyde Park, eighteen and thirteen one hundredths per cent.; Milton, forty-five and seven one hundredths per cent., said percentages being the same reported to the supreme judicial court by the apportionment commissioners in the year eighteen hundred and ninety-six, and accepted by said court.

Apportionment of interest, sinking fund requirements, etc., for five years following 1900.

SECT. 3. The supreme judicial court sitting in equity shall on the application of the board of metropolitan sewerage commissioners, after notice to each of the cities and towns mentioned in this act, appoint three commissioners, who shall not be residents of any of the cities and towns mentioned in this act, who shall, after due notice and hearing and in such manner as they deem just and equitable, determine for said system the proportion in which each of the cities and towns herein named shall annually pay money into the treasury of the commonwealth for the term of five years next following the year nineteen hun-

dred, to meet the interest and sinking fund requirements for the said five years, as estimated by said treasurer, and any deficiency in the amount previously paid in, as found by said treasurer, and shall return their award into said court; and when said award shall have been accepted by said court the same shall be a final and conclusive adjudication of all matters herein referred to said commissioners, and shall be binding on all parties.

SECT. 4. Before the expiration of said term of five years and every five years thereafter, other commissioners, who shall not be residents of any of the cities or towns mentioned in this act, shall be appointed as aforesaid, upon application of said board as aforesaid, who shall in such manner as they deem just and equitable determine the proportion in which each of said cities and towns in said system shall annually pay money into the treasury of the commonwealth as aforesaid for the next succeeding term of five years, and shall return their award into said court; and when said award shall have been accepted by said court the same shall be a final and conclusive adjudication of all matters herein referred to said commissioners, and shall be binding on all parties.

Apportionment for each succeeding five years.

SECT. 5. The amount of money required each year from each city and town named in this act, to meet the interest and sinking fund requirements and cost aforesaid for the system in which in this act it is included for each year, and deficiency, if any, shall be estimated by said treasurer in accordance with the proportion determined as aforesaid, and shall be included in and made a part of the sum charged to such city or town, and be assessed upon it at the time and in addition to its annual state tax, and said treasurer shall in each year notify each such city and town of the amount of such assessment, which amount shall be paid by the city or town into the treasury of the commonwealth at the time required for the payment of its state tax.

Apportionment to be assessed with state tax.

SECT. 6. The supreme judicial court shall have jurisdiction in equity to enforce the provisions of this act, and shall fix and determine the compensation of all commissioners appointed by said court under the provisions hereof.

Enforcement of act and compensation of commissioners.

SECT. 7. This act shall take effect upon its passage.

Approved March 15, 1898.

1898. — CHAPTER 215.

AN ACT TO PROVIDE AN ADDITIONAL OUTLET FOR THE SEWAGE OF THE CITY OF EVERETT.

Be it enacted, etc., as follows:

SECTION 1. The metropolitan sewerage commissioners shall provide an additional outlet for the sewage of the city of Everett and the city of Malden incidentally, and, in acting in behalf of the commonwealth, shall take by purchase or otherwise, of the

Provision of outlet for sewage of Everett and Malden.

city of Malden, the present sewers constructed by said city of Malden, commencing at the metropolitan sewer in Middlesex street and running easterly through Charles street, southerly through Main street, northeasterly through Eastern avenue to the center of Bryant street, southerly through Bryant street to the middle of Cross street in said Malden, and shall pay to the said city of Malden the cost of the construction of the same, and the same shall become and is hereby made a part of the main trunk line of sewers belonging to the metropolitan system; and the metropolitan sewerage commissioners shall at once extend the said sewer to the Everett line by constructing a sewer through Bryant street extension, so-called, in said Malden, to the Everett line, which also is hereby made a part of the aforesaid main trunk line of sewers; and the city of Everett shall have the right, under the direction of the metropolitan sewerage commissioners, to connect its system of sewers with said main trunk line of sewers; and the said city of Malden shall have the right to maintain and make house connections with the said main sewers and connect lateral sewers therewith, in the same manner as with the present sewers of the said city, under the direction of the metropolitan sewerage commissioners: *provided, however*, that, for the purpose of assessment and taxation, said main sewers from Middlesex street to the Everett line shall be treated as a local sewer of said Malden, and assessments or annual rates shall be made therefor by said city of Malden according to such scheme or plan as may be now in operation or as may be adopted by said city for its local sewers, and such sums as may be assessed therefor shall be paid by the treasurer of said city of Malden into the treasury of the commonwealth and shall be credited to and form a part of the funds known as the Metropolitan Sewerage Loan Fund, authorized by chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine and acts in amendment thereof.

Powers and
duties of com-
missioners.

SECT. 2. In providing said outlet and in receiving sewage from said cities, and in any action in relation thereto, and for the purpose of taking, constructing and maintaining this additional line of sewers to the Everett line said board of sewerage commissioners, acting in behalf of the commonwealth, shall have and exercise all the authority conferred upon them by chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine and by acts in amendment thereof regarding the original system or anything relating thereto, and all the provisions of said chapter are hereby made applicable to this additional taking and construction, except as herein otherwise provided.

Metropolitan
Sewerage
Loan.

SECT. 3. To meet the expenses incurred under the provisions of this act the treasurer and receiver general shall, with the approval of the governor and council, issue scrip or certificates of debt in the name and behalf of the commonwealth and under its seal, to an amount not exceeding sixty thousand dollars, for a term not exceeding thirty-two years. All the pro-

visions of section three of chapter four hundred and fourteen of the acts of the year eighteen hundred and ninety-six, relative to the indebtedness authorized to be incurred by said chapter, shall apply to the indebtedness authorized by this section, in the same manner as if said provisions had been inserted at length in this act.

SECT. 4. The interest and sinking fund requirements of the moneys expended in constructing the main sewers provided for in this act, and the cost of maintenance thereof, shall be deemed a part of the interest, sinking fund requirements and costs specified in section fifteen of chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, and shall be paid as provided for in said section.

Payment of
construction,
maintenance
and operation.

SECT. 5. This act shall take effect upon its passage.

[Approved March 24, 1898.]

1898. — CHAPTER 424.

AN ACT RELATIVE TO THE CONSTRUCTION, MAINTENANCE AND OPERATION OF THE METROPOLITAN SEWERAGE SYSTEM.

Be it enacted, etc., as follows:

SECTION 1. To meet the expenses incurred under the provisions of chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine and of acts in amendment thereof, the treasurer and receiver general shall, with the approval of the governor and council, issue from time to time scrip or certificates of debt, in the name and behalf of the commonwealth and under its seal, to an amount not exceeding one hundred and fifty-five thousand dollars, for a term not exceeding thirty-two years. Said scrip or certificates of debt shall be issued as registered bonds or with interest coupons attached, and shall bear interest at a rate not exceeding four per cent. per annum, payable semi-annually on the first days of March and September in each year. Said interest and scrip or certificates shall be payable, and when due shall be paid, in gold coin or its equivalent. Said scrip or certificates of debt shall be designated on their face as the Metropolitan Sewerage Loan, shall be countersigned by the governor and shall be deemed a pledge of the faith and credit of the commonwealth, redeemable at the time specified therein in gold coin or its equivalent, and shall be sold and disposed of at public auction or in such other mode and at such times and prices and in such amounts and at such rate of interest, not exceeding four per cent. per annum, as the governor and council shall deem for the best interests of the commonwealth. Any scrip or certificates of debt issued under the provisions of this act shall be considered as an addition to and shall become a part of the loan authorized by said chapter four hundred and thirty-nine, and the sinking fund established

Metropolitan
Sewerage
Loan.

under the provisions of said chapter shall be a sinking fund for the extinguishment of the debt authorized by this act, said fund to be increased in the following manner:—The treasurer and receiver general shall from year to year, beginning with the year eighteen hundred and ninety-eight, apportion to said sinking fund an amount sufficient with its accumulations to extinguish the debt at maturity, and in making the assessment for the increase of said sinking fund upon the several cities and towns liable thereto, one twenty-fourth part of the whole amount shall be assessed in each of the first three years, beginning with the year eighteen hundred and ninety-eight; one sixtieth part in each of the next ten years, beginning with the year nineteen hundred and one; one thirtieth part in each of the next ten years, beginning with the year nineteen hundred and eleven, and the remainder shall be equally divided in the remaining years, beginning with the year nineteen hundred and twenty-one. Any premium realized from the sale of said scrip or certificates of debt shall be applied to the payment of the interest on said loan as it accrues.

Apportionment of interest and sinking fund requirements for years 1898, 1899 and 1900.

SECT. 2. Each of the cities and towns hereinafter named shall in the years eighteen hundred and ninety-eight, eighteen hundred and ninety-nine and nineteen hundred, pay money into the treasury of the commonwealth to meet the interest and sinking fund requirements for each of said years, as estimated by said treasurer, in the following proportions, to wit:—Arlington, two and seventy-four one hundredths per cent.; Belmont, one and thirty one hundredths per cent.; Boston, eighteen and ninety-six one hundredths per cent.; Cambridge, twenty-six and nineteen one hundredths per cent.; Chelsea, seven and thirty-seven one hundredths per cent.; Everett, four and one one hundredth per cent.; Malden, eight and nineteen one hundredths per cent.; Medford, five and twenty-nine one hundredths per cent.; Melrose, three and twenty-two one hundredths per cent.; Somerville, fourteen and thirty-three one hundredths per cent.; Stoneham, one and twenty-eight one hundredths per cent.; Wakefield, twenty-eight one hundredths per cent.; Winchester, two and twenty one hundredths per cent.; Winthrop, one and forty-nine one hundredths per cent.; Woburn, three and fifteen one hundredths per cent.; said percentages being the same reported to the supreme judicial court by the apportionment commissioners in the year eighteen hundred and ninety-six, and accepted by said court.

Apportionment of interest, sinking fund requirements, etc., for five years following 1900.

SECT. 3. The supreme judicial court sitting in equity shall on application of the board of metropolitan sewerage commissioners, after notice to each of the cities and towns mentioned in this act, appoint three commissioners, who shall not be residents of any of the cities and towns mentioned in this act, who shall, after due notice and hearing and in such manner as they deem just and equitable, determine for said system the proportion in which each of the cities and towns herein named shall annually pay money into the treasury of the commonwealth

for the term of five years next following the year nineteen hundred, to meet the interest and sinking fund requirements for the said five years, as estimated by said treasurer, and any deficiency in the amount previously paid in, as found by said treasurer, and shall return their award into said court; and when such award shall have been accepted by said court the same shall be a final and conclusive adjudication of all matters herein referred to said commissioners, and shall be binding on all parties.

SECT. 4. Before the expiration of said term of five years, and every five years thereafter, other commissioners, who shall not be residents of any of the cities or towns mentioned in this act, shall be appointed as aforesaid, upon application of said board as aforesaid, who shall in such manner as they deem just and equitable determine the proportion in which each of said cities and towns in said system shall annually pay money into the treasury of the commonwealth as aforesaid for the next succeeding term of five years, and shall return their award into said court; and when said award shall have been accepted by said court the same shall be a final and conclusive adjudication of all matters herein referred to said commissioners, and shall be binding on all parties.

Apportionment for each succeeding five years.

SECT. 5. The amount of money required each year from each city and town named in this act, to meet the interest and sinking fund requirements and cost aforesaid for the system in which in this act it is included for each year, and deficiency, if any, shall be estimated by said treasurer in accordance with the proportion determined as aforesaid, and shall be included in and made a part of the sum charged to such city or town, and be assessed upon it at the time and in addition to its annual state tax; and said treasurer shall in each year notify each such city and town of the amount of such assessment, which amount shall be paid by the city or town into the treasury of the commonwealth at the time required for the payment of its state tax.

Apportionment to be assessed with state tax.

SECT. 6. The supreme judicial court shall have jurisdiction in equity to enforce the provisions of this act, and shall fix and determine the compensation of all commissioners appointed by said court under the provisions hereof.

Enforcement of act and compensation of commissioners.

SECT. 7. This act shall take effect upon its passage.

[Approved May 12, 1898.]

1898. — RESOLVES. — CHAPTER 4.

RESOLVE RELATIVE TO A HIGH-LEVEL SEWER FOR THE RELIEF OF THE CHARLES AND NEPONSET RIVER VALLEYS.

Resolved, That the board of metropolitan sewerage commissioners is hereby authorized and directed to consider and report upon a high-level system of sewerage for the Charles

Consideration and report on high-level sewer for Charles and Neponset river valleys.

and Neponset river valleys. It shall be the duty of said board — First. To designate the portions of the cities and towns which shall be tributary to and embraced in the district to be reported upon, and to define the same in their report with plans and maps, and said district and system shall thereafter be known and designated as the South Metropolitan System. Second. To define and show, by suitable plans and maps, such trunk line and main branches as it shall recommend to be constructed, with outlet. Third. To consider the various methods of disposal of sewage and the application of such methods to any portion of the territory herein mentioned, and to define the methods by which the cities and towns, or parts of the cities and towns, may utilize said trunk line and main branches as an outlet of a system of sewerage and drainage for the cities and towns and said parts of the cities and towns, respectively, and to show the same by plans and maps. Fourth. To employ such engineering and other assistance as may be necessary for carrying out the objects of this resolve, and to cause such surveys and levels to be made as will show on the plans, with substantial accuracy, the location and grades of said trunk line and main branches, and also such surveys and levels in the cities and towns, and parts of the cities and towns, as will enable said board to determine the methods by which the cities and towns may respectively utilize said trunk line and main branches, and to report such methods, with plans showing the main lines by which each may so provide for itself a system of sewerage with its outlet into said trunk line or main branches. Fifth. To define the size and capacity of said trunk line and main branches, and the materials of which they should be constructed, and the manner of construction, and such other particulars as will enable said board to determine the probable expense thereof; and to ascertain and report the cost of the construction of said trunk line and main branches and outlet. All expenses incurred by said board under the provisions of this resolve, but not to exceed thirty thousand dollars, shall be paid out of the treasury of the commonwealth and shall be assessed by the treasurer of the commonwealth in two annual instalments for the years eighteen hundred and ninety-eight and eighteen hundred and ninety-nine, upon the cities and towns comprised within the said systems, at the following rates, the same being the proportions for maintaining and operating the said systems made by the apportionment commission in its report to the supreme judicial court in the year eighteen hundred and ninety-six and accepted by said court, to wit: — Boston, twenty-seven and twenty-seven one hundredths per cent.; Brookline, eight and twelve one hundredths per cent.; Dedham, nine and ninety-three one hundredths per cent.; Hyde Park, seventeen and seventy-six one hundredths per cent.; Milton, eight and twenty-five one hundredths per cent.; Newton, fourteen per cent.; Waltham, ten and sixty-nine one hundredths per cent.; Watertown, three and ninety-eight one hundredths per cent.

On or before the first day of May in the year eighteen hundred and ninety-nine said board of metropolitan sewerage commissioners shall make a report to the general court upon the matters herein referred to it, with a bill for carrying out any recommendations which it may see fit to make.

[*Approved February 15, 1898.*]

1899.—CHAPTER 122.

AN ACT RELATIVE TO THE METROPOLITAN SEWERAGE LOANS SINKING FUND.

Be it enacted, etc., as follows:

SECTION 1. The treasurer and receiver general is hereby authorized to consolidate the sinking fund established for the payment of the Metropolitan Sewerage Loan, issued under the authority of chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, chapter three hundred and seven of the acts of the year eighteen hundred and ninety-four, chapter two hundred and ninety-four of the acts of the year eighteen hundred and ninety-five, chapter four hundred and fourteen of the acts of the year eighteen hundred and ninety-six and chapter one hundred and eighty of the acts of the year eighteen hundred and ninety-eight; and for the payment of the Metropolitan Sewerage, Neponset River Valley, Loan, issued under the authority of chapter four hundred and six of the acts of the year eighteen hundred and ninety-five, into one sinking fund, to be known as the Metropolitan Sewerage Loans Sinking Fund.

Consolidation
of Metropoli-
tan Sewerage
Loans sinking
fund.

SECT. 2. This act shall take effect upon its passage.

[*Approved March 4, 1899.*]

1899.—CHAPTER 241.

AN ACT RELATIVE TO THE EXPENSES INCURRED UNDER THE ACT TO PROVIDE FOR A SYSTEM OF SEWAGE DISPOSAL FOR THE NEPONSET RIVER VALLEY.

Be it enacted, etc., as follows:

SECTION 1. To meet the expenses incurred under the provisions of chapter four hundred and six of the acts of the year eighteen hundred and ninety-five and acts in amendment thereof the treasurer and receiver general shall, with the approval of the governor and council, issue from time to time scrip or certificates of debt, in the name and behalf of the commonwealth and under its seal, to an amount not exceeding twenty-five thousand dollars, for a term not exceeding thirty-seven years. Said scrip or certificates of debt shall be issued as registered bonds or as

Metropolitan
Sewerage
Loan.

bonds with interest coupons attached, and shall bear interest at a rate not exceeding four per cent per annum, payable on the first days of March and September in each year. Said interest and scrip or certificates shall be payable, and when due shall be paid, in gold coin or its equivalent. Said scrip or certificates of debt shall be designated on their face as the Metropolitan Sewerage Loan, shall be countersigned by the governor, and shall be deemed a pledge of the faith and credit of the commonwealth, redeemable at the time specified therein in gold coin or its equivalent, and shall be sold and disposed of at public auction or in such other mode and at such times and prices and in such amounts and at such rate of interest, not exceeding four per cent per annum, as the governor and council shall deem for the best interests of the commonwealth. Any scrip or certificates of debt issued under the provisions of this act shall be considered as an addition to and shall become a part of the loan authorized by said chapter four hundred and six; and the sinking fund established under the provisions of chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine and of acts in addition thereto shall be a sinking fund for the extinguishment of the debt authorized by this act, said fund to be increased in the following manner: — The treasurer and receiver general shall from year to year, beginning with the year eighteen hundred and ninety-nine, apportion to said sinking fund an amount sufficient with its accumulations to extinguish the debt at maturity, and in making the assessment for the increase of said sinking fund upon the several cities and towns liable thereto one fifty-sixth part of the whole amount shall be assessed in each of the first seven years, beginning with the year eighteen hundred and ninety-nine; one sixtieth part in each of the next ten years, beginning with the year nineteen hundred and six; one thirtieth part in each of the next ten years, beginning with the year nineteen hundred and sixteen; and the remainder shall be equally distributed in the remaining years, beginning with the year nineteen hundred and twenty-six. Any premium realized from the sale of said scrip or certificates of debt shall be applied to the payment of the interest on said loan as it accrues.

Apportion-
ment of inter-
est and sinking
fund require-
ments for
years 1899 and
1900.
1896, 406, § 18.

SECT. 2. Each of the cities and towns hereinafter named shall in the years eighteen hundred and ninety-nine and nineteen hundred, pay money into the treasury of the commonwealth to meet the interest and sinking fund requirements for each of said years, as estimated by said treasurer, in the following proportions, to wit: — Boston, twenty-three and twenty-eight one hundredths per cent; Dedham, thirteen and fifty-two one hundredths per cent; Hyde Park, eighteen and thirteen one hundredths per cent; Milton, forty-five and seven one hundredths per cent, said percentages being the same reported to the supreme judicial court by the apportionment commissioners in the year eighteen hundred and ninety-six, and accepted by said court.

SECT. 3. The supreme judicial court sitting in equity shall on the application of the board of metropolitan sewerage commissioners, after notice to each of the cities and towns mentioned in this act, appoint three commissioners, who shall not be residents of any of the cities and towns mentioned in this act, who shall, after due notice and hearing and in such manner as they deem just and equitable, determine for said system the proportion in which each of the cities and towns herein named shall annually pay money into the treasury of the commonwealth for the term of five years next following the year nineteen hundred, to meet the interest and sinking fund requirements for the said five years, as estimated by said treasurer, and any deficiency in the amount previously paid in, as found by said treasurer, and shall return their award into said court; and when said award shall have been accepted by said court the same shall be a final and conclusive adjudication of all matters herein referred to said commissioners, and shall be binding on all parties.

Apportionment of interest, sinking fund requirements, etc., for five years following 1900.

SECT. 4. Before the expiration of said term of five years and every five years thereafter, other commissioners, who shall not be residents of any of the cities or towns mentioned in this act, shall be appointed as aforesaid, upon application of said board as aforesaid, who shall in such manner as they deem just and equitable determine the proportion in which each of said cities and towns in said system shall annually pay money into the treasury of the commonwealth as aforesaid for the next succeeding term of five years, and shall return their award into said court; and when said award shall have been accepted by said court the same shall be a final and conclusive adjudication of all matters herein referred to said commissioners, and shall be binding on all parties.

Apportionment for each succeeding five years.

SECT. 5. The amount of money required each year from each city and town named in this act, to meet the interest and sinking fund requirements and cost aforesaid for each year, and the deficiency, if any, shall be estimated by said treasurer in accordance with the proportion determined as aforesaid, and shall be included in and made a part of the sum charged to such city and town, and be assessed upon it in addition to its annual state tax, and at the same time when that tax is assessed; and said treasurer shall in each year notify every such city and town of the amount of such assessment, which amount shall be paid by the city or town into the treasury of the commonwealth at the time required for the payment of its state tax.

Apportionment to be assessed with state tax. 1896, 406, § 18.

SECT. 6. The supreme judicial court shall have jurisdiction in equity to enforce the provisions of this act, and shall fix and determine the compensation of all commissioners appointed by said court under the provisions hereof.

Enforcement of act and compensation of commissioners.

SECT. 7. This act shall take effect upon its passage.

[Approved April 10, 1899.]

1899. — CHAPTER 424.

AN ACT TO PROVIDE FOR THE CONSTRUCTION OF A HIGH-LEVEL GRAVITY SEWER FOR THE RELIEF OF THE CHARLES AND NEPONSET RIVER VALLEYS.

Be it enacted, etc., as follows :

Construction,
etc., of system
of sewage dis-
posal for south
metropolitan
system.

SECTION 1. The board of metropolitan sewerage commissioners shall, for the purpose of constructing, maintaining and operating a system of sewage disposal for the south metropolitan system as hereinafter defined, construct, maintain and operate such mains, sewers and other works as may be necessary, in substantial accordance with plans outlined in a special report of said board to the general court of eighteen hundred and ninety-nine: *provided, however,* that no part of said proposed outlet, or sewerage system, between Hyde Park and the outlet, shall be constructed before the year nineteen hundred, and until plans for said outlet shall be further considered by said board, and adopted and approved by the state board of health.

South metro-
politan system.
1889, 439, § 3.
1896, 406, § 1.

SECT. 2. The south metropolitan system shall include the present Charles river valley metropolitan sewerage district, comprising a part of Boston, the cities of Newton and Waltham, and the towns of Watertown and Brookline; the present Neponset valley metropolitan sewerage district, comprising a part of Boston and the towns of Dedham, Hyde Park and Milton; also Quincy and such portion of Dorchester, Roxbury and West Roxbury as are not included in the present metropolitan sewerage areas, and as are so situated as to be drained into the proposed high-level sewer substantially as outlined on maps contained in the special report of the metropolitan sewerage commissioners to the general court of eighteen hundred and ninety-nine. Nothing herein shall be construed to vest any rights which cannot be extended to cities and towns or parts thereof other than those herein named, upon such terms and conditions as may hereafter be imposed by legislative enactment.

Lands, water
courses,
sewers, etc.,
may be taken,
etc.

SECT. 3. Said board, acting on behalf of the commonwealth, may take by purchase or otherwise any lands, water courses, rights of way or easements, and may take by purchase or otherwise or enter and use existing sewers or parts of sewers necessary for carrying out, under the provisions of this act, the recommendations contained in the said report. When any lands, water courses, rights of way or easements, or any sewers or parts of sewers are so taken or entered and used in any manner other than by purchase or agreement, said board shall, within thirty days of said taking or entering and using, cause to be recorded in the registry of deeds for the county or district in which such lands, water courses, rights of way or easements, or sewers or parts of sewers lie, a description thereof sufficiently accurate for identification, with a statement of the purpose for

which the same are taken or entered and used, which description shall be signed by a majority of said board; and the fee of the lands, or if an easement or other estate less than the fee therein be specified and described in the deed of purchase or in the description and statement of taking to be recorded as aforesaid, then such easement or estate therein as is so specified and described, and the water courses, rights of way or easements, or sewers or parts of sewers so taken or purchased shall vest in the commonwealth, which shall pay, in the manner hereinafter described, all damages which may be sustained by any person or corporation by reason of such taking or entering as aforesaid. Such damages are to be agreed upon by said board and the person or corporation injured; and if the parties cannot agree a jury in the superior court of the county in which the property taken or damaged is situated may be had to determine the same, in the same manner as a jury is had and damages are determined in the case of persons dissatisfied with the estimate of damages sustained by the laying out of ways in the city of Boston: *provided, however*, that no suit for such damages shall be brought after the expiration of two years from the date of the recording of the taking or entering as herein required.

SECT. 4. Said board may, for the purposes aforesaid, carry any sewer made by it under or over any water course, or any street, turnpike road, railroad, highway or other way in such manner as not unnecessarily to obstruct or impede travel thereon; and may enter upon and dig up any such road, street or way for the purpose of laying sewers beneath the surface thereof and of maintaining and repairing the same; and in general may do any other acts and things necessary or convenient and proper for the purposes of this act. In entering upon and digging up any such road, street or way of public travel said board shall be subject to such reasonable regulations as may be made by the mayor and aldermen or selectmen of the cities and towns, respectively, wherein such work shall be performed.

Sewers may be carried under or over water courses, streets, etc.

SECT. 5. Whenever said board shall dig up any road, street or way, as aforesaid, it shall so far as practicable restore the same to as good order and condition as the same was in before such digging began; and the commonwealth shall at all times indemnify and save harmless the several cities and towns within which such roads, streets or ways are situated, against all damages which may be recovered against them respectively, and shall reimburse them for all expenses which they may incur by reason of any defect or want of repair in any road, street or way, caused by the construction of any of said sewers, or by the maintaining or repairing of the same: *provided*, that said board has due and reasonable notice of all claims for such damages or injury, and opportunity to make a legal defence thereto.

Streets to be restored to good order and condition.

SECT. 6. Said board may also change the direction of any water course, and may with the consent of the mayor and aldermen of cities or selectmen of towns, widen or change the location or grade of any highway, town way, public street or other way

Alteration of water courses and ways.

of travel crossed by any sewers constructed under the provisions of this act, or in which such sewers may be located.

Accounts.

SECT. 7. Said board shall at all times keep accurate and complete accounts of its receipts, expenditures, assets and liabilities, and shall include an abstract of the same in its annual report to the general court.

Connection of local sewers and private drains with main sewers.

SECT. 8. Any city or town, within the limits of which any main sewer shall have been constructed under the provisions of this act, shall connect its local sewers with such main sewer, except as hereinafter provided, subject to the direction and control of said board, and any person, firm or corporation may, subject to the direction, control and regulation, from time to time, of said board, and subject to such terms, conditions and regulations as each city or town may prescribe, connect private drains with such main sewer: *provided*, that the said board shall, without expense to the city of Quincy, make all connections and take and construct such intercepting sewers as may be necessary to enable the city of Quincy to drain by gravity its territory into said metropolitan sewer. The present pumping station and force mains of the city of Quincy shall be taken and paid for by said board of metropolitan sewerage commissioners, and said board shall build and operate such new force main or mains and pumping stations as may be necessary to enable the city of Quincy to drain its sewerage systems into said metropolitan sewer. The sewerage systems of all drainage areas not now drained by the south metropolitan system, which are constructed after the passage of this act, shall be constructed in accordance with the so-called separate system of sewerage.

Penalties for injury to property.

SECT. 9. Any person or persons who shall wantonly or maliciously destroy or injure any sewer or other property held or used by said board by the authority and for the purposes of this act, shall forfeit and pay to the commonwealth three times the amount of the damages that shall be assessed therefor, to be recovered by any proper action. And every such person or persons may, on complaint, or indictment, and conviction of any of the wanton or malicious acts aforesaid, be punished by a fine not exceeding one thousand dollars, and by imprisonment not exceeding one year.

Sale of property not needed for construction.

SECT. 10. Said board may from time to time, and at public or private sale as they may deem best, dispose of any property, real or personal, no longer needed for the construction, maintenance or operation of the sewers authorized by this act: *provided*, that such sale shall not impair the maintenance and operation of said sewers.

Conveyance of real estate subject to easements, etc.

SECT. 11. Real estate so sold may be conveyed, subject to such easements, reservations and restrictions as said board may deem necessary to secure the maintenance, renewal and operation of said sewers, by deed duly executed by said commissioners on behalf of the commonwealth, with or without warranty.

SECT. 12. The net proceeds of any such sales, after deducting all necessary expenses incurred thereby, shall be paid into the treasury of the commonwealth and shall be credited to and form a part of the fund to be used in the construction or maintenance of said sewers.

Disposition of
proceeds of
sales.

SECT. 13. Any money which may be received by the treasurer and receiver general of the commonwealth from checks deposited with said board by bidders for work, and by said board declared forfeited, and any sums received by said treasurer and receiver general for breach of any contract made with said board, shall be applied to the payment of interest upon the loan made under authority of this act.

Disposition of
forfeited
money, etc.

SECT. 14. To meet the expenses incurred under the provisions of this act for the construction of the sewerage works recommended the treasurer and receiver general shall, with the approval of the governor and council, issue from time to time scrip or certificates of debt, in the name and behalf of the commonwealth and under its seal, to an amount not exceeding four million six hundred thousand dollars, for a term not exceeding forty years from the date thereof. Said scrip or certificates of debt shall be issued as registered bonds or with interest coupons attached, and shall bear interest not exceeding four per cent. per annum, payable on the first days of March and September in each year. Said interest and scrip or certificates shall be made payable, and when due shall be paid, in gold coin or its equivalent. Said scrip or certificates of debt shall be designated on the face thereof as the Metropolitan Sewerage Loan, shall be countersigned by the governor, and shall be deemed a pledge of the faith and credit of the commonwealth, redeemable at the times specified therein in gold coin or its equivalent, and shall be sold and disposed of at public auction or in such other mode and at such times and prices and in such amounts and at such rates of interest, not exceeding four per cent. per annum, as the treasurer and receiver general, with the approval of the governor and council, shall deem for the best interests of the commonwealth. Any scrip or certificates of debt issued under the provisions of this act shall be construed as an addition to and shall become a part of the loan authorized by chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine; and the sinking fund established under the provisions of said chapter shall be a sinking fund for the extinguishment of the debt authorized by this act. The treasurer and receiver general shall, on issuing any of said scrip or certificates of debt, apportion thereto from year to year an amount sufficient with its accumulations to extinguish the debt at maturity; but any such apportionment or assessment shall be at the rate of one eightieth part of the whole amount in each of the first ten years, one sixtieth part in each of the second ten years, one thirtieth part in each of the third ten years, and the remainder equally divided in the next ten years.

Metropolitan
Sewerage
Loan.

Any premium realized on the sale of said scrip or said certificates of debt shall be applied to the payment of the interest on said loan as it accrues.

Interest, sinking fund requirements, etc., to be assessed upon cities and towns in south metropolitan district.

SECT. 15. The interest and sinking fund requirements and the cost of maintenance and operation of the Charles river system incurred under the provisions of chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, and the interest and sinking fund requirements and the cost of maintenance and operation of the Neponset river system, incurred under the provisions of chapter four hundred and six of the acts of the year eighteen hundred and ninety-five, and of acts in amendment thereof, shall be assessed upon the cities and towns of the south metropolitan district as hereinafter provided.

Apportionment of interest, sinking fund requirements, etc., for five years following first issue.

SECT. 16. The supreme judicial court sitting in equity shall, on the application of said board after notice to each of the cities and towns hereinbefore named, appoint three commissioners, who shall not be residents of any of the cities or towns mentioned in this act, who shall, after due notice and hearing and in such manner as they shall deem just and equitable, determine the proportion in which each of the cities and towns hereinbefore named shall annually pay money into the treasury of the commonwealth for the term of five years next after the year of the first issue of said scrip or certificates, to meet the interest and sinking fund requirements for each of said years, as estimated by said treasurer, and to meet the cost of maintenance and operation of said system for each of said years, as estimated by the said board and certified to said treasurer, and any deficiency in the amount previously paid in, as found by said treasurer, and shall return their award into said court; and when said award shall have been accepted by said court the same shall be a final and conclusive adjudication of all matters herein referred to said commissioners, and shall be binding on all parties.

Apportionment for each succeeding five years.

SECT. 17. Before the expiration of said term of five years and every five years thereafter other commissioners, who shall not be residents of any of the cities or towns mentioned in this act, shall be appointed as aforesaid, who shall, in such manner as they deem just and equitable, determine the proportion in which each of said cities and towns in each of said systems shall annually pay money into the treasury of the commonwealth as aforesaid for the next succeeding term of five years, and shall return their award into said court; and when said award shall have been accepted by said court the same shall be a final and conclusive adjudication of all matters herein referred to said commissioners, and shall be binding on all parties.

Apportionment to be assessed with State tax.

SECT. 18. The amount of money required each year from each such city and town to meet the interest, sinking fund requirements and cost aforesaid for that system in which it is included for each year, and the deficiency, if any, shall be estimated by said treasurer, in accordance with the proportion determined as aforesaid, and shall be included in and made a

part of the sum charged to such city or town, and shall be assessed upon it in the apportionment and assessment of its annual state tax, and said treasurer shall in each year notify each such city and town of the amount of such assessment, which amount shall be paid by the city or town into the treasury of the commonwealth at the time required for the payment and as a part of its state tax.

SECT. 19. The clerk of the board of metropolitan sewerage commissioners, or such other person as said board may designate, may have advanced to him from the money in the treasury of the commonwealth received from the loan hereinbefore authorized, such sums, not exceeding ten thousand dollars at any time, as the auditor may certify to be necessary to enable said board to make direct payments upon its pay rolls and other accounts. The person so designated by said board shall give bond with sufficient sureties, to be approved by the auditor of the commonwealth, in the sum of ten thousand dollars.

Money advanced for payment upon pay rolls and other accounts.

SECT. 20. As soon as may be after expending such advance, and in any case within thirty days from the receipt thereof, the officer who has received money of the commonwealth under the provisions of the preceding section shall file with the said auditor a statement in detail of the sums expended subsequent to the previous accounting, approved by said board, and, where it is practicable to obtain them, receipts or other like vouchers of the persons to whom the payments have been made.

Statement of expenditures.

SECT. 21. The supreme judicial court shall have jurisdiction in equity to enforce the provisions of this act, and shall determine the compensation of all commissioners appointed by said court under the provisions hereof.

Enforcement of act and compensation of commissioners.

SECT. 22. The expense incurred by the board of metropolitan sewerage commissioners under the provisions of chapter four of the resolves of the year eighteen hundred and ninety-eight shall be charged to the fund to be used in the construction and maintenance of said sewers, and the amounts paid by the several cities and towns named in said resolve shall be repaid to said cities and towns, in the settlement of their proportionate part of the cost of the construction and maintenance of said sewers.

Payment of certain expenses.

SECT. 23. This act shall take effect from its passage.

[Approved May 27, 1899.]

1900. — CHAPTER 172.

AN ACT TO PROVIDE FOR THE ADDITION OF A PART OF THE TOWN OF WAKEFIELD TO THE NORTH METROPOLITAN SEWERAGE SYSTEM.

Be it enacted, etc., as follows:

SECTION 1. The territory of the town of Wakefield comprising that part of the town not now provided for in the metro-

Part of Wakefield added to north metropolitan district.

politan sewerage system is hereby added to the north metropolitan sewerage district, created by chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, entitled "An Act to provide for the building, maintenance and operation of a system of sewage disposal for the Mystic and Charles river valleys." In becoming a part of the metropolitan system said addition shall be subject to the provisions and shall conform to the requirements of the aforesaid act and of acts in amendment thereof and in addition thereto, except as herein provided, and the proportionate liability incurred by said addition shall be assumed by the town of Wakefield. Any authority granted to other municipalities by said act or acts in amendment thereof and in addition thereto is also vested in said town of Wakefield.

Outlet to be provided for additional sewage of Wakefield.

SECT. 2. The metropolitan sewerage commissioners shall provide an outlet at the Wakefield town line for the additional sewage of said town, and acting on behalf of the commonwealth shall construct a main trunk sewer through such parts of the cities of Melrose and Malden as may be necessary, to a point in the north metropolitan system at or near Barrett's pond, as said commissioners may determine, but at a point sufficiently below the grade of the main sewer from Melrose not to impede the flow of sewage from said sewer as it empties into the main sewer in Malden.

Authority of Metropolitan Sewerage Commissioners.

SECT. 3. In providing said outlet and in receiving sewage from said addition and said town of Wakefield, and in any action in relation thereto, and for the purpose of taking, constructing and maintaining said additional main lines of sewer, the said board of sewerage commissioners, acting on behalf of the commonwealth, shall have and exercise all the authority conferred upon them by chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine and by acts in amendment thereof and in addition thereto regarding the original system or anything relating thereto, and all the provisions of said chapter are hereby made applicable to this additional taking and construction, except as herein otherwise provided.

Metropolitan Sewerage Loan.

SECT. 4. To meet the expense incurred under the provisions of this act the treasurer and receiver general shall, with the approval of the governor and council, issue scrip or certificates of debt, in the name and behalf of the commonwealth and under its seal, to an amount not exceeding one hundred and seventy-five thousand dollars, for a term not exceeding thirty years. Said scrip or certificates of debt shall be issued as registered bonds or with interest coupons attached, and shall bear interest at a rate not exceeding four per cent. per annum, payable semi-annually on the first days of March and September in each year. Said interest and scrip or certificates shall be payable and when due shall be paid in gold coin or its equivalent. Said scrip or certificates of debt shall be designated on their faces, Metropolitan Sewerage Loan, shall be countersigned by the governor, and shall be deemed a pledge of the faith and credit of the common-

wealth, redeemable at the time specified therein in gold coin or its equivalent, and shall be sold and disposed of at public auction or in such other mode and at such times and prices and in such amounts and at such rate of interest, not exceeding four per cent. per annum, as the treasurer and receiver general with the approval of the governor and council shall deem for the best interests of the commonwealth. Any scrip or certificates of debt issued under the provisions of this act shall be considered as an addition to and shall become a part of the loan authorized by chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, as amended by chapter three hundred and seven of the acts of the year eighteen hundred and ninety-four, and by chapter two hundred and ninety-four of the acts of the year eighteen hundred and ninety-five.

SECT. 5. The interest and sinking fund requirements of the moneys expended in constructing the part of the sewerage system as provided for in this act, and the cost of maintenance and operation thereof, shall be deemed and paid as a part of the interest, sinking fund requirements and costs specified in section fifteen of said chapter four hundred and thirty-nine, and the sinking fund established under the provisions of said chapter shall be a sinking fund for the extinguishment of the debt authorized by this act, said funds to be increased in the following manner: — The treasurer and receiver general shall from year to year, beginning with the year nineteen hundred, apportion to said sinking fund an amount sufficient with its accumulations to extinguish the debt at maturity; and in making the assessment for the increase of said sinking fund upon the several cities and towns liable thereto seven two hundred and fortieths of the whole amount shall be assessed in each of the first ten years, beginning with the year nineteen hundred, one thirtieth in each of the next ten years, beginning with the year nineteen hundred and ten, and the remainder shall be equally divided in the next ten years, beginning with the year nineteen hundred and twenty. Any premium realized from the sales of said scrip or certificates of debt shall be applied to the payment of the interest on said loan as it accrues.

Interest and
sinking fund
requirements.

SECT. 6. The commissioners to be appointed by the supreme judicial court under the provisions of sections fourteen of chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, for the purposes specified in said section, and any other commissioners thereafter appointed for said purposes, shall include the town of Wakefield among the cities and towns whose proportions are to be determined as provided in said section.

Inclusion of
Wakefield in
apportion-
ment.

SECT. 7. The board of metropolitan sewerage commissioners, until the town of Wakefield has been included in a finding of commissioners appointed by the supreme judicial court, shall each year determine the amount to be paid by said town in that year as its fair share of the interest, sinking fund requirements and cost of maintenance and operation of said north metropoli-

Proportionate
payment by
Wakefield.

tan sewerage system, and the same shall be certified by the treasurer and receiver general and paid by said town as provided for payments of proportional parts of such interest, sinking fund requirements and costs by the other cities and towns in said district: *provided, however*, that no part of the cost of maintenance shall be assessed upon said town until its sewers are connected with the north metropolitan system as provided herein.

Acceptance
of act.

SECT. 8. This act shall take effect upon its acceptance by vote of a majority of the legal voters of said town of Wakefield present and voting thereon at a legal meeting called for that purpose.¹
[Approved March 23, 1900.]

1900. — CHAPTER 184.

AN ACT TO PROVIDE ADDITIONAL OUTLETS FOR THE SEWAGE OF THE CITIES OF CHELSEA AND EVERETT.

Be it enacted, etc., as follows:

Additional
outlets for
sewage of
Chelsea and
Everett.

SECTION 1. The board of metropolitan sewerage commissioners shall provide additional outlets for the sewage of the cities of Chelsea and Everett by extending the metropolitan sewer from its present terminus, near the junction of Eastern avenue and Willoughby street in Chelsea, to and across the boundary line between Chelsea and Everett, in the best manner to serve the sewerage needs of those districts of said cities which are situated in the valley of Snake or Mill creek.

Connections
with sewers.

SECT. 2. The cities of Chelsea and Everett and any persons and corporations may, subject to the control and under the direction of the said board, make connections with any sewers constructed by the board under the authority of this act.

Powers and
duties of com-
missioners.

SECT. 3. In providing said outlets and in receiving sewage from said districts, and in any action in relation thereto, and for the purpose of constructing and maintaining said additional main lines of sewer, the said board of sewerage commissioners, acting on behalf of the commonwealth, shall have and exercise all the authority conferred upon them by chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine and by acts in amendment thereof and in addition thereto regarding the original system or anything relating thereto; and all the provisions of said chapter are hereby made applicable to this additional construction, except as herein otherwise provided.

Metropolitan
Sewerage
Loan.

SECT. 4. To meet the expenses incurred under the provisions of this act the treasurer and receiver general shall, with the approval of the governor and council, issue scrip or certificates of debt, in the name and behalf of the commonwealth and under its seal, to an amount not exceeding ninety thousand

¹ Accepted April 30, 1900.

dollars, for a term not exceeding thirty years. Said scrip or certificates of debt shall be issued as registered bonds or with interest coupons attached, and shall bear interest at a rate not exceeding four per cent. per annum, payable semi-annually on the first days of March and September in each year. Said interest and scrip or certificates shall be payable, and when due shall be paid, in gold coin or its equivalent. Said scrip or certificates of debt shall be designated on their face, Metropolitan Sewerage Loan, shall be countersigned by the governor, and shall be deemed a pledge of the faith and credit of the commonwealth, redeemable at the time specified therein, in gold coin or its equivalent, and shall be sold and disposed of at public auction or in such other mode and at such times and prices and in such amounts and at such rate of interest, not exceeding four per cent. per annum, as the treasurer and receiver general with the approval of the governor and council shall deem for the best interests of the commonwealth. Any scrip or certificates of debt issued under the provisions of this act shall be considered as an addition to and shall become a part of the loan authorized by chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, as amended by chapter three hundred and seven of the acts of the year eighteen hundred and ninety-four, and by chapter two hundred and ninety-four of the acts of the year eighteen hundred and ninety-five.

SECT. 5. The interest and sinking fund requirements of the moneys expended in constructing that part of the sewerage system provided for in this act, and the cost of maintenance and operation thereof, shall be deemed and paid as a part of the interest, sinking fund requirements and costs specified in section fifteen of said chapter four hundred and thirty-nine; and the sinking fund established under the provisions of said chapters shall be a sinking fund for the extinguishment of the debt authorized by this act, said funds to be increased in the following manner:— The treasurer and receiver general shall from year to year, beginning with the year nineteen hundred, apportion to said sinking fund an amount sufficient with its accumulations to extinguish the debt at maturity; and in making the assessment for the increase of said sinking fund upon the several cities and towns liable thereto seven two hundred and fortieths of the whole amount shall be assessed in each of the first ten years, beginning with the year nineteen hundred, one-thirtieth part in each of the next ten years, beginning with the year nineteen hundred and ten, and the remainder shall be equally divided in the next ten years, beginning with the year nineteen hundred and twenty. Any premium realized from the sale of said scrip or certificates of debt shall be applied to the payment of the interest on said loan as it accrues.

Payment of
construction,
maintenance
and operation.

SECT. 6. This act shall take effect upon its passage.

[Approved March 30, 1900.]

1900.—CHAPTER 464.

AN ACT TO AUTHORIZE AND DIRECT THE BOARD OF METROPOLITAN SEWERAGE COMMISSIONERS TO REFUND TO THE TOWN OF WATERTOWN THE COST OF A SIPHON UNDER THE CHARLES RIVER.

Be it enacted, etc., as follows :

Cost of siphon
to be paid to
Watertown.

SECTION 1. The board of metropolitan sewerage commissioners is hereby authorized and directed to pay to the town of Watertown the sum of ninety-six hundred dollars, with interest thereon at the rate of four per cent. per annum from the first day of April in the year eighteen hundred and ninety-seven ; said sum having been paid by the town of Watertown for a siphon with connected structures constructed under the direction of said board, extending under the Charles river from the eastern part of said town to the main sewer of the Charles river valley system of sewage disposal. Said siphon shall hereafter form a part of the south metropolitan system of sewers.

Metropolitan
Sewerage
Loan.

SECT. 2. To provide for the payment of the aforesaid sum the treasurer and receiver general shall, with the approval of the governor and council, issue scrip or certificates of debt, in the name and behalf of the commonwealth and under its seal, to such amount as may be necessary, for a term not exceeding forty years from the date thereof. The scrip or certificates of debt so issued shall be construed as an addition to and shall become a part of the loan authorized by chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine; and the sinking fund established under the provisions of said chapter shall be a sinking fund for the extinguishment of the debt authorized by this act. The interest and sinking fund requirements of said debt and the cost of maintenance and operation of said siphon shall be assessed upon the cities and towns of the south metropolitan district in the manner provided by chapter four hundred and twenty-four of the acts of the year eighteen hundred and ninety-nine.

SECT. 3. This act shall take effect upon its passage.

[Approved July 16, 1900.]

1901.—CHAPTER 168.

AN ACT TO CONSOLIDATE THE METROPOLITAN WATER BOARD AND THE BOARD OF METROPOLITAN SEWERAGE COMMISSIONERS.

Be it enacted, etc., as follows :

Metropolitan
Water and
Sewerage
Board created.

SECTION 1. A board is hereby created which shall be known as the Metropolitan Water and Sewerage Board, and shall consist of three members, who shall be appointed by the governor with the advice and consent of the council.

SECT. 2. The term of office of the members of said board shall be three years, beginning from the date of their appointment, but of the members first appointed one shall be appointed for the term of five years, one for the term of four years and one for the term of three years from said date of appointment. The governor shall designate one of the members of said board as chairman, and shall also designate the term for which each member is appointed.

Term of office.

SECT. 3. The chairman of said board shall receive a salary of five thousand dollars a year, and each of the other members shall receive a salary of forty-five hundred dollars a year.

Compensation.

SECT. 4. The governor shall have power to remove any member of said board with the advice and consent of the council, and to fill all vacancies therein, by appointing for the remainder of any unexpired term in the same manner in which appointments are authorized for a full term.

Removals and vacancies.

SECT. 5. The metropolitan water board and the board of metropolitan sewerage commissioners are hereby abolished. All the powers, rights, duties and liabilities of said metropolitan water board and of said board of metropolitan sewerage commissioners, and of each of them, are hereby transferred to the Metropolitan Water and Sewerage Board created by this act. No existing contracts, liabilities or suits shall be affected hereby, but the board hereby created shall in all respects and for all purposes whatsoever be the lawful successor of said metropolitan water board and of said board of metropolitan sewerage commissioners.

Metropolitan water board and board of metropolitan sewerage commissioners abolished.

SECT. 6. This act shall take effect upon its passage.

[Approved March 20, 1901.]

1901. — CHAPTER 204.

AN ACT TO PROVIDE ADDITIONAL SEWERAGE FACILITIES FOR THE CITY OF NEWTON AND THE TOWN OF BROOKLINE.

Be it enacted, etc., as follows :

SECTION 1. The metropolitan water and sewerage board shall extend the metropolitan sewer from a branch in St. Joseph's cemetery in West Roxbury to and across the boundary line between Newton and Brookline, in the manner best adapted to serve the sewerage needs of those municipalities.

Extension of sewer into Newton and Brookline.

SECT. 2. The city of Newton and the town of Brookline, and any persons and corporations, may, subject to the control and under the direction of the said board, make connections with any sewers constructed by the board under the authority of this act.

Connections with sewers.

SECT. 3. In making said extension and in receiving sewage from said districts, and in any action relating thereto, and for the purpose of constructing and maintaining said additional main lines of sewer, the said board, acting on behalf of the

Powers and duties of board.

commonwealth, shall have and exercise all the authority conferred by chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, by chapter four hundred and six of the acts of the year eighteen hundred and ninety-five, and by acts in amendment thereof and in addition thereto regarding the original system or anything relating thereto, and by chapter one hundred and sixty-eight of the acts of the year nineteen hundred and one; and all the provisions of said chapters are hereby made applicable to this additional construction, except as herein otherwise provided.

Metropolitan
Sewerage
Loan.

SECT. 4. To meet the expenses incurred under the provisions of this act the treasurer and receiver general shall, with the approval of the governor and council, issue scrip or certificates of debt, in the name and behalf of the commonwealth and under its seal, to an amount not exceeding forty thousand dollars, for a term not exceeding forty years. Such scrip or certificates of debt shall be issued as registered bonds or with interest coupons attached, and shall bear interest at a rate not exceeding four per cent per annum, payable semi-annually on the first days of March and September in each year. The said interest and scrip or certificates shall be payable and when due shall be paid in gold coin or its equivalent. Said scrip or certificates of debt shall be designated on their face, Metropolitan Sewerage Loan, shall be countersigned by the governor, and shall be deemed a pledge of the faith and credit of the commonwealth, redeemable at the time specified therein, in gold coin or its equivalent, and shall be sold or disposed of at public auction or in such other mode and at such times and prices and in such amounts and at such rate of interest, not exceeding four per cent per annum, as the treasurer and receiver general with the approval of the governor and council shall deem for the best interests of the commonwealth. Any scrip or certificates of debt issued under the provisions of this act shall be considered as an addition to and shall become a part of the loan authorized by chapter four hundred and six of the acts of the year eighteen hundred and ninety-five and acts in amendment thereof and in addition thereto.

Payment of
construction,
maintenance
and operation.

SECT. 5. The interest and sinking fund requirements of the moneys expended in constructing that part of the sewerage system provided for in this act, and the cost of maintenance and operation thereof, shall be deemed and paid as a part of the interest, sinking fund requirements and costs specified in said chapter four hundred and six and acts in amendment thereof and in addition thereto; and the sinking fund established under the provisions of said chapter shall be a sinking fund for the extinguishment of the debt authorized by this act, said funds to be increased in the following manner:— The treasurer and receiver general shall from year to year, beginning with the year nineteen hundred and one, apportion to said sinking fund an amount sufficient with its accumulations to extinguish the debt at maturity; and in making the assessment for the increase of

said sinking fund upon the several cities and towns liable thereto such proportions of the whole amount shall be assessed in each year as will harmonize with the proportions to be assessed on account of the sinking fund for loans now outstanding for the Neponset river valley metropolitan sewer system. Any premium realized from the sale of said scrip or certificates of debt shall be applied to the payment of the interest on said loan as it accrues.

SECT. 6. This act shall take effect when the town of Brookline appropriates money to construct a sewer or sewers in said town to connect with the extension of the metropolitan sewer provided for by this act.¹ [*Approved March 26, 1901.*]

When act
takes effect.

1901.—CHAPTER 442.

AN ACT RELATIVE TO BONDS REQUIRED TO BE GIVEN UNDER CERTAIN CONTRACTS MADE BY THE METROPOLITAN WATER AND SEWERAGE BOARD.

Be it enacted, etc., as follows:

Chapter three hundred and thirty-nine of the acts of the year eighteen hundred and ninety-seven is hereby amended by inserting at the end thereof the following:—Nothing herein contained shall be construed to deprive any city or town of any rights or remedies under laws existing at the time of the passage of this act.

Amendment
to St. 1897, c.
839.

[*Approved May 29, 1901.*]

1901.—CHAPTER 513.

AN ACT TO AUTHORIZE THE ADVANCEMENT OF MONEYS FOR THE PURPOSES OF THE METROPOLITAN WATER AND SEWERAGE BOARD.

Be it enacted, etc., as follows:

SECTION 1. There may be advanced from the treasury of the commonwealth to such person as shall be designated by the metropolitan water and sewerage board such sums of money, not exceeding twenty thousand dollars at any one time, as the auditor of accounts may certify to the treasurer of the commonwealth to be necessary to enable said board to make direct payments upon their pay rolls and other accounts. Said sum may be advanced from any loan or appropriation under the control of the metropolitan water and sewerage board. The person to whom this money is advanced shall within thirty days from the receipt of any sum file with the auditor of accounts a statement in detail of the moneys expended, approved by the metropolitan water and sewerage board, and, where it is practicable to obtain

Advances for
payment upon
pay rolls and
other accounts.

¹ Appropriation made March 27, 1901.

them, receipts or other like vouchers of the persons to whom the payments have been made. The person so designated shall give a bond with sufficient sureties, to be approved by the auditor of accounts, in the sum of twenty thousand dollars.

Repeal.

SECT. 2. All acts and parts of acts inconsistent herewith are hereby repealed.

SECT. 3. This act shall take effect upon its passage.

[Approved June 14, 1901.]

1902. — CHAPTER 101.

AN ACT TO FIX THE TIME WHEN PROPERTY SHALL BE DEEMED TO BE TAKEN FOR THE METROPOLITAN SEWERAGE WORKS.

Be it enacted, etc., as follows :

Recording and
notice of
takings.

SECTION 1. The metropolitan water and sewerage board, in order hereafter to take any property by right of eminent domain for the metropolitan sewerage works, shall sign and cause to be recorded in the registry of deeds for the county and district in which the property to be taken is situated, a statement containing a description thereof, as certain as is required in a common conveyance of land, and stating that the same is taken for the metropolitan sewerage works; and upon such recording the rights, easements and other property described in such statement shall be taken for the commonwealth for the purposes of the metropolitan sewerage works. Said board, after it has so taken any property under the right of eminent domain, shall notify the owner thereof, and upon his request, within three years after such taking, shall, within thirty days after such request, furnish him with a description in writing of the land or other property so taken from him.

SECT. 2. This act shall take effect upon its passage.

[Approved February 24, 1902.]

1903. — CHAPTER 161.

AN ACT RELATIVE TO LANDS TAKEN FOR THE PURPOSES OF WATER SUPPLY.

Be it enacted, etc., as follows :

R. L. 13, § 13,
amended.

SECTION 1. Section twelve of chapter twelve of the Revised Laws is hereby amended by adding at the end thereof the following: — If land within any city or town shall have been taken from such city or town for said purposes, and for any one of the three years prior to the taking shall have been used for any public purpose, and for that reason no taxes shall have been collected thereon, the city or town and the board or officer having charge of the water supply may within six years after

the taking agree as to the value of the land upon which the annual payment is to be made as aforesaid from the time of the taking, and if they cannot agree the board or officer shall notify the city or town thereof; and thereupon the value shall be determined by the superior court under the provisions of said sections seventy-eight and seventy-nine, and said notice shall be deemed to be the notice referred to in said section seventy-eight.

The provisions of this section and of the two preceding sections shall apply to property acquired for the purposes of the metropolitan water supply,—so as to read as follows:—

Section 12. The assessors of a city or town in which land is acquired by another city or town for the purpose of a water supply shall, within one year after such acquisition, determine the said average valuation of such land, and certify the amount so determined to such other city or town. The mayor of a city or the selectmen of a town, within six months after receipt of said certificate, may appeal from such determination to the superior court for the county where the land lies; and said court shall determine such valuation in the manner provided in the two preceding sections, and the provisions of sections seventy-eight and seventy-nine, so far as applicable, shall govern such appeal.

Valuation of land held by a city or town in another city or town for a water supply.

If land within any city or town shall have been taken from such city or town for said purposes, and for any one of the three years prior to the taking shall have been used for any public purpose, and for that reason no taxes shall have been collected thereon, the city or town and the board or officer having charge of the water supply may within six years after the taking agree as to the value of the land upon which the annual payment is to be made as aforesaid from the time of the taking, and if they cannot agree the board or officer shall notify the city or town thereof; and thereupon the value shall be determined by the superior court under the provisions of said sections seventy-eight and seventy-nine, and said notice shall be deemed to be the notice referred to in said section seventy-eight. The provisions of this section and of the two preceding sections shall apply to property acquired for the purposes of the metropolitan water supply.

SECT. 2. This act shall take effect upon its passage.

[Approved March 18, 1903.]

1903. — CHAPTER 242.

AN ACT TO PROVIDE FOR THE ADDITION OF THE TOWN OF REVERE TO THE NORTH METROPOLITAN SEWERAGE SYSTEM.

Be it enacted, etc., as follows:

SECTION 1. The territory comprising the town of Revere is hereby added to the north metropolitan sewerage district, created by chapter four hundred and thirty-nine of the acts of

Annexation of Revere to north metropolitan district.

the year eighteen hundred and eighty-nine. In becoming a part of the metropolitan system said addition shall be subject to the provisions and shall conform to the requirements of the aforesaid act and of acts in amendment thereof and in addition thereto, except as otherwise provided herein, and the proportionate liability incurred by said addition shall be assumed by the town of Revere. Any authority granted to other municipalities by said act or acts in amendment thereof and in addition thereto is also vested in the town of Revere, in common with said other municipalities.

Outlet for sewerage of Revere.

SECT. 2. The metropolitan water and sewerage board shall provide one or more outlets at the Revere town line for the sewerage of said town, and, acting on behalf of the commonwealth, shall construct a main trunk sewer or sewers through such parts of the city of Chelsea as may be necessary, to such point in the north metropolitan system at the corner of Eastern avenue and Marginal street in Chelsea, as said board may determine. The sewer or sewers so to be constructed to enter the town of Revere shall be built at a sufficiently low grade to drain by gravity the sewerage from the whole town of Revere.

Powers and duties of board.

SECT. 3. In providing such outlets and in receiving sewerage from the town of Revere, and in any action relating thereto, and for the purpose of taking, constructing and maintaining such additional main lines of sewer, the said metropolitan water and sewerage board, acting on behalf of the commonwealth, shall have and exercise all the authority conferred upon them by chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine and acts in amendment thereof and in addition thereto, and by chapter one hundred and sixty-eight of the acts of the year nineteen hundred and one; and all the provisions of said acts are hereby made applicable to this additional construction, except as otherwise provided herein.

Metropolitan Sewerage Loan.

SECT. 4. To meet the expenses incurred under the provisions of this act the treasurer and receiver general shall, with the approval of the governor and council, issue scrip or certificates of debt, in the name and behalf of the commonwealth and under its seal, to an amount not exceeding two hundred thousand dollars, for a term not exceeding thirty years. Such scrip or certificates of debt shall be issued as registered bonds or with interest coupons attached, and shall bear interest at a rate not exceeding four per cent per annum, payable semi-annually, on the first days of March and September in each year. Said interest and the scrip or certificates shall be payable and when due shall be paid in gold coin or its equivalent. Such scrip or certificates of debt shall be designated on the face thereof, Metropolitan Sewerage Loan, shall be countersigned by the governor, and shall be deemed a pledge of the faith and credit of the commonwealth, redeemable at the time specified therein in gold coin or its equivalent, and shall be sold and disposed of at public auction or in such other mode and at such times and prices and in such amounts and at such rate of inter-

est, not exceeding four per cent per annum, as the treasurer and receiver general with the approval of the governor and council shall deem for the best interests of the commonwealth. Any scrip or certificates of debt issued under the provisions of this act shall be considered as an addition to and shall become a part of the loan authorized by chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, as amended by chapter three hundred and seven of the acts of the year eighteen hundred and ninety-four, and by chapter two hundred and ninety-four of the acts of the year eighteen hundred and ninety-five.

SECT. 5. The interest and sinking fund requirements of the moneys expended in constructing that part of the sewerage system provided for in this act, and the cost of maintenance and operation thereof, shall be deemed and paid as a part of the interest, sinking fund requirements and costs specified in section fifteen of said chapter four hundred and thirty-nine, and the sinking fund established under the provisions of said chapters shall be a sinking fund for the extinguishment of the debt authorized by this act, said funds to be increased in the following manner:—The treasurer and receiver general shall from year to year, beginning with the year nineteen hundred and three, apportion to said sinking fund an amount sufficient with its accumulations to extinguish the debt at maturity; and in making the assessment for the increase of said sinking fund upon the several cities and towns liable thereto seven two hundred and fortieths of the whole amount shall be assessed in each of the first seven years, beginning with the year nineteen hundred and three, one thirtieth in each of the next ten years, beginning with the year nineteen hundred and ten, and the remainder shall be distributed equally in the next ten years, beginning with the year nineteen hundred and twenty. Any premium realized from the sale of said scrip or certificates of debt shall be applied to the payment of the interest on said loan as it accrues.

Payment of
construction,
maintenance
and operation

SECT. 6. The commissioners to be appointed by the supreme judicial court under the provisions of section fourteen of chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, for the purposes specified in said section and any other commissioners thereafter appointed for said purposes, shall include the town of Revere among the cities and towns whose proportions are to be determined as provided in said section.

Revere to be
included in
apportionment
of interest, etc.

SECT. 7. The metropolitan water and sewerage board until the town of Revere has been included in a finding of commissioners appointed by the supreme judicial court, shall each year determine the amount to be paid by said town in that year as its fair share of the interest, sinking fund requirements and cost of maintenance and operation of said north metropolitan sewerage system, and the same shall be certified by the treasurer and receiver general and paid by said town as provided for pay-

Determination
of amount to
be paid until
apportion-
ment.

ments of proportional parts of such interest, sinking fund requirements and costs by the other cities and towns in said districts: *provided, however*, that no part of the cost of maintenance shall be assessed upon said town until its sewers are connected with the north metropolitan system as provided herein.

SECT. 8. This act shall take effect upon its passage.

[*Approved April 16, 1903.*]

1903. — CHAPTER 315.

AN ACT TO PROVIDE FOR EXPENSES INCURRED IN THE CONSTRUCTION BY THE METROPOLITAN WATER AND SEWERAGE BOARD OF THE SEWER FOR THE NEPONSET RIVER VALLEY.

Be it enacted, etc., as follows:

Metropolitan
Sewerage
Loan.

SECTION 1. The treasurer and receiver general, in order to meet additional expenses incurred under the provisions of chapter four hundred and six of the acts of the year eighteen hundred and ninety-five, and of acts in amendment thereof and in addition thereto, shall, with the approval of the governor and council, issue from time to time scrip or certificates of debt in the name and behalf of the commonwealth and under its seal, to an amount not exceeding four thousand dollars, in addition to the amounts hitherto authorized to be issued under the provisions of said chapter and acts, and the said provisions shall apply to this additional loan.

SECT. 2. This act shall take effect upon its passage.

[*Approved May 5, 1903.*]

1903. — CHAPTER 336.

AN ACT TO PROVIDE AN ADDITIONAL OUTLET FOR THE SEWAGE OF THE TOWN OF BELMONT.

Be it enacted, etc., as follows:

Outlet for sewage of part of
Belmont.

SECTION 1. The metropolitan water and sewerage board is hereby authorized and directed to provide an outlet for the sewage of that part of the town of Belmont, approximately three hundred and thirty acres in area, situated north of Belmont street and adjoining the city of Cambridge on the westerly side of that city, and to construct for that purpose a sewer extending westerly from the existing metropolitan sewer in Mount Auburn street, at Lowell street, through Mount Auburn street to Aberdeen avenue, thence northerly through Aberdeen avenue, and westerly through Dundee street and private lands and under the Watertown branch railroad; thence westerly through Holworthy place and Holworthy street and private lands to Cushing street

near Cushing avenue; and thence westerly in Cushing avenue to the Belmont line at Ericson street. The city of Cambridge shall have the right to make and maintain house connections with said additional metropolitan sewer and to connect lateral sewers therewith, in the same manner in which connections are made with the present sewers of that city, under the direction of the metropolitan water and sewerage board: *provided, however*, that no drain or sewer used for the conveyance of any rain water shall be connected with said sewer.

SECT. 2. In providing an outlet for the sewage of the aforesaid part of the town of Belmont and in receiving sewage from said area, and in all action relating thereto, and for the purpose of constructing and maintaining the additional metropolitan sewer, the metropolitan water and sewerage board, acting on behalf of the commonwealth, shall have and exercise all the authority conferred upon said board by chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, and by acts in amendment thereof and in addition thereto, regarding the original system or anything relating thereto; and all the provisions of said chapter and acts are hereby made applicable to this additional taking and construction, except as otherwise provided herein.

Powers and
duties of
board.

SECT. 3. The treasurer and receiver general, in order to meet the expenses incurred under this act, shall, with the approval of the governor and council, issue from time to time scrip or certificates of debt in the name and behalf of the commonwealth and under its seal, to an amount not exceeding fifty thousand dollars, and any scrip or certificates of debt so issued shall be considered as in addition to the amounts authorized under chapter four hundred and thirty-nine and acts in amendment thereof and in addition thereto, and the provisions of said chapter and acts in relation to the loan so authorized shall apply to this additional loan.

Metropolitan
Sewerage
Loan.

SECT. 4. This act shall take effect upon its passage.

[*Approved May 9, 1903.*]

1903. — CHAPTER 356.

AN ACT TO PROVIDE FOR EXPENSES INCURRED IN THE CONSTRUCTION BY THE METROPOLITAN WATER AND SEWERAGE BOARD OF THE HIGH-LEVEL GRAVITY SEWER FOR THE RELIEF OF THE CHARLES AND NEPONSET RIVER VALLEYS.

Be it enacted, etc., as follows:

SECTION 1. The treasurer and receiver general of the commonwealth, in order to meet additional expenses incurred under the provisions of chapter four hundred and twenty-four of the acts of the year eighteen hundred and ninety-nine, shall, with the approval of the governor and council, issue from time to time scrip or certificates of debt in the name and behalf of the

Metropolitan
Sewerage
Loan.

commonwealth and under its seal, to an amount not exceeding nine hundred and ninety-six thousand dollars, in addition to the amount authorized to be issued under the provisions of said chapter; and the provisions of said chapter and of acts in amendment thereof and in addition thereto shall apply to this additional loan.

SECT. 2. This act shall take effect upon its passage.

[Approved May 15, 1903.]

1903. — CHAPTER 383.

AN ACT RELATIVE TO SEPARATE SYSTEMS OF DRAINAGE.

Be it enacted, etc., as follows :

Separation of
surface water
from sewage.

SECTION 1. The owner of every estate abutting on a public way in which a drain, namely, a conduit for surface or storm water and such waters as shall be specified by the state board of health; and a sewer, namely, a conduit for all other waters and for sewage, all such other waters to be considered sewage, shall have been provided by a city or town, and the owner of any other estate, using any such drain or sewer, shall make or change the plumbing of his estate so that the waters shall be kept separate from the sewage; and shall, as directed by the officer having charge of the maintenance of sewers in such city or town, make connections for, and conduct, the waters into the drain and the sewage into the sewer.

Plumbing
arrangements
of estates.

SECT. 2. The owner of every estate whose sewage is to be taken into any metropolitan sewer shall hereafter, in plumbing his estate, so arrange the plumbing as to keep the waters separate from the sewage, and shall, as directed by said officer, make connections for, and conduct, the waters into the drain and the sewage into the sewer; but where only one conduit shall have been provided in the street by the city or town, such owner shall, as directed by said officer, construct said connections into the street and connect them with the conduit so provided, and the city or town shall provide the other conduit and all necessary connections with either conduit.

Branch inter-
cepting sewers
to be con-
structed by
cities and
towns.

SECT. 3. Any city or town using any metropolitan sewer may, in any year, and shall in any year specified by the officer or board having charge of said sewers, expend one twentieth of one per cent. of its taxable valuation, to be met by loan outside the debt limit, in the construction, in connection with said sewers, of branch intercepting sewers, connections of existing sewers with intercepting sewers, branch drains, sewers or drains in any street where one thereof only shall have been built, and the necessary connections aforesaid.

Enforcement
of act.

SECT. 4. The supreme judicial court and the superior court shall have jurisdiction in equity to enforce the provisions of this act.

SECT. 5. This act shall take effect upon its passage.

[Approved May 26, 1903.]

1903. — CHAPTER 399.

AN ACT TO PROVIDE FOR EXPENSES INCURRED IN THE CONSTRUCTION BY THE METROPOLITAN WATER AND SEWERAGE BOARD OF THE NORTH METROPOLITAN SEWERAGE SYSTEM.

Be it enacted, etc., as follows :

SECTION 1. The treasurer and receiver general of the commonwealth, in order to meet additional expenses incurred under the provisions of chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, and of acts in amendment thereof and in addition thereto, shall, with the approval of the governor and council, issue from time to time scrip or certificates of debt in the name and behalf of the commonwealth and under its seal, to an amount not exceeding two hundred and fifty thousand dollars, in addition to the amounts hitherto authorized to be issued under the provisions of said chapter and of acts in amendment thereof and in addition thereto, and the provisions of said chapter and of said acts shall apply to this additional loan.

Metropolitan
Sewerage
Loan.

SECT. 2. This act shall take effect upon its passage.

[Approved May 27, 1903.]

1904. — CHAPTER 230.

AN ACT TO AUTHORIZE THE METROPOLITAN WATER AND SEWERAGE BOARD TO DETERMINE THE LINES AND GRADES OF THE HIGH-LEVEL METROPOLITAN SEWER ABOVE THE POINT WHERE THE SEWAGE OF THE CHARLES RIVER VALLEY IS TO BE RECEIVED.

Be it enacted, etc., as follows :

SECTION 1. The metropolitan water and sewerage board is hereby authorized to determine the location, elevation and size of the high level metropolitan sewer above the point where the sewage from the Charles river valley is to be received.

Determination
of location,
etc., of high
level metropol-
itan sewer.

SECT. 2. To meet the expenses of determining the said location, as provided in section one, the treasurer and receiver general is authorized to issue scrip or certificates of debt in the name and on behalf of the commonwealth, and under its seal, to an amount not exceeding seven thousand dollars in addition to the amounts authorized to be issued under the provisions of chapter four hundred and twenty-four of the acts of the year eighteen hundred and ninety-nine, and of chapter three hundred and fifty-six of the acts of the year nineteen hundred and three; and all the provisions of said acts shall apply to this additional loan.

Metropolitan
Sewerage
Loan.

SECT. 3. This act shall take effect upon its passage.

[Approved April 12, 1904.]

1904. — CHAPTER 246.

AN ACT TO PROVIDE FOR EXPENSES INCURRED IN THE CONSTRUCTION OF THE HIGH-LEVEL GRAVITY SEWER FOR THE RELIEF OF THE CHARLES AND NEPONSET RIVER VALLEYS.

Be it enacted, etc., as follows :

Metropolitan
Sewerage
Loan.

SECTION 1. The treasurer and receiver general of the commonwealth, in order to meet additional expenses incurred under the provisions of chapter four hundred and twenty-four of the acts of the year eighteen hundred and ninety-nine, and chapter three hundred and fifty-six of the acts of the year nineteen hundred and three, shall, with the approval of the governor and council, issue from time to time scrip or certificates of debt in the name and behalf of the commonwealth and under its seal, to an amount not exceeding three hundred and eighty-five thousand dollars, in addition to the amounts authorized to be issued under the provisions of said chapters; and the provisions of said chapters and of acts in amendment thereof and in addition thereto shall apply to this additional loan.

SECT. 2. This act shall take effect upon its passage.

[Approved April 22, 1904.]

1904. — CHAPTER 431.

AN ACT RELATIVE TO THE APPROVAL OF CERTAIN OFFICIAL BONDS.

Be it enacted, etc., as follows :

Approval of
certain official
bonds.

SECTION 1. The official bonds given by persons designated to receipt for advances of money by the metropolitan park commission and the metropolitan water and sewerage board, which have heretofore been approved by the auditor of accounts, shall hereafter be approved by the treasurer and receiver general.

SECT 2. This act shall take effect upon its passage.

[Approved June 4, 1904.]

1905. — CHAPTER 457.

AN ACT RELATIVE TO ASSESSMENTS UPON CITIES AND TOWNS IN THE METROPOLITAN WATER, SEWERAGE AND PARK DISTRICTS.

Be it enacted, etc., as follows :

Apportion-
ment of assess-
ments.

SECTION 1. In case any apportionment for assessment upon the cities or towns of either the metropolitan water, sewerage or park districts shall not have been finally determined by July first of any year, the last apportionment thereof shall remain in force for the purpose of assessment during such current year. Any difference between such apportionment when finally made

by the commission, for such year, and the preëxisting apportionment above referred to, shall be adjusted with such city or town by the treasurer and receiver general in the assessment of the succeeding year by a deduction therefrom or an addition thereto, as may be required to give effect to the said apportionment when made as aforesaid.

SECT. 2. This act shall take effect upon its passage.

[Approved May 25, 1905.]

1906. — CHAPTER 235.

AN ACT RELATIVE TO THE ANNUAL REPORTS OF THE METROPOLITAN WATER AND SEWERAGE BOARD.

Be it enacted, etc., as follows :

SECTION 1. The metropolitan water and sewerage board shall, on or before the third Wednesday in January in each year, in accordance with the provisions of chapter two hundred and eleven of the acts of the year nineteen hundred and five, report to the general court an abstract of its receipts, expenditures, disbursements, assets and liabilities for the preceding fiscal year, as required by said act, together with all recommendations for legislation which it deems desirable, and shall in the month of February present a more detailed statement of its doings for the calendar year next preceding, the same to be printed as its annual report for the year.

Annual reports of metropolitan water and sewerage board.

SECT. 2. This act shall take effect upon its passage.

[Approved April 2, 1906.]

1906. — CHAPTER 319.

AN ACT TO PROVIDE FOR AN EXTENSION OF THE METROPOLITAN SEWER IN THE CITY OF MALDEN.

Be it enacted, etc., as follows :

SECTION 1. The metropolitan water and sewerage board shall extend the metropolitan sewer in Linden avenue, in the city of Malden, from a point near Waverly street, through Linden avenue, Pleasant street and private lands, Jackson street and private lands, to a point in the north metropolitan system about five hundred feet south of Charles street, and shall connect the same by overflow and proper appurtenances with the tidal flow of the Malden river.

Extension of metropolitan sewer in Malden.

SECT. 2. For the purpose of constructing and maintaining this addition to the extension of the metropolitan sewers, the metropolitan water and sewerage board shall have and exercise all the authority conferred upon the metropolitan sewerage commissioners and their successors by chapter four hundred and thirty-nine of the acts of the year eighteen hundred and

Powers and duties of board.

eighty-nine and acts in amendment thereof and in addition thereto, regarding the original system or anything relating thereto, and the provisions of said chapter and of such other acts are hereby made applicable to this additional construction unless herein otherwise provided.

Metropolitan
Sewerage
Loan.
1889, 489, § 12.

SECT. 3. To meet the expenses incurred under the provisions of this act for the construction of the sewerage work recommended, the treasurer and receiver general shall, with the approval of the governor and council, issue from time to time bonds, in the name and behalf of the commonwealth and under its seal, to an amount not exceeding fifty-five thousand dollars. The provisions of section twelve of said chapter four hundred and thirty-nine and of acts in amendment thereof and in addition thereto relative to the indebtedness authorized by and incurred under this chapter, shall, so far as they may be applicable, apply to the indebtedness authorized by this act, in the same manner as if the said provisions had been inserted herein, except that any premiums which may be realized from the sale of said bonds shall be applied in the same manner in which the proceeds of the sale of such bonds, exclusive of the amounts received from premiums, are now applied.

Payment of
interest, sink-
ing fund re-
quirements,
etc.

SECT. 4. The interest and sinking fund requirements on account of the moneys expended in constructing the extension of the metropolitan sewer in Malden provided for in this act, and the cost of maintenance thereof, shall be deemed a part of the interest, sinking fund requirements and costs provided for by section fifteen of said chapter four hundred and thirty-nine, and shall be apportioned, assessed and collected in the manner provided by that chapter and by acts in amendment thereof or in addition thereto.

SECT. 5. This act shall take effect upon its passage.

[Approved April 28, 1906.]

1906. — CHAPTER 338.

AN ACT RELATIVE TO PREMIUMS RECEIVED FROM THE SALE OF METROPOLITAN SEWERAGE LOAN BONDS.

Be it enacted, etc., as follows :

Application of
premium from
sale of bonds.

SECTION 1. Premiums received from the sale of scrip, certificates of debt or bonds, issued on account of the metropolitan sewerage works, shall hereafter be paid into the sinking fund for the extinguishment of the principal indebtedness.

SECT. 2. This act shall take effect upon its passage.

[Approved April 30, 1906.]

1906. — CHAPTER 369.

AN ACT TO ESTABLISH THE BASES FOR DETERMINING THE ANNUAL ASSESSMENTS UPON THE MUNICIPALITIES WITHIN THE METROPOLITAN SEWERAGE DISTRICTS FOR INTEREST AND SINKING FUND REQUIREMENTS AND COST OF MAINTENANCE AND OPERATION.

Be it enacted, etc., as follows :

SECTION 1. The proportions in which each of the cities and towns belonging in whole or in part to the north metropolitan and south metropolitan sewerage districts, respectively, shall annually pay money into the treasury of the commonwealth to meet the interest and sinking fund requirements for each year, as estimated by the treasurer of the commonwealth, and to meet any deficiency in the amount previously paid in, as found by said treasurer, shall be based upon the respective taxable valuations of the property of said cities and towns, as last established by the general court for the purpose of constituting a basis of apportionment for state and county taxes.

Apportionment of interest and sinking fund requirements to be based upon valuations.

SECT. 2. The proportions in which each of the cities and towns belonging in whole or in part to the north metropolitan and south metropolitan sewerage districts, respectively, shall annually pay money into the treasury of the commonwealth to meet the cost of maintenance and operation of the respective sewerage systems, as estimated by the metropolitan water and sewerage board and certified by the treasurer of the commonwealth, and to meet any deficiency in the amount previously paid in, as found by said treasurer, shall be based upon the respective populations of said cities and towns as ascertained by the last preceding state or United States census.

Apportionment of cost of maintenance and operation to be based upon population.

SECT. 3. If less than the whole area of any city or town is included in either of said metropolitan sewerage systems, the valuation and population only of that part of the city or town which is included in either of said systems, as determined by the metropolitan water and sewerage board, shall be used as a basis in determining the proportion and amount which it shall pay as its share of interest and sinking fund requirements and of the cost of maintenance and operation of works.

Apportionment when part of a city or town is included.

SECT. 4. The metropolitan water and sewerage board shall annually, in accordance with the provisions of the foregoing sections, determine for each system the proportion in which each of the cities and towns belonging in whole or in part to such system, shall annually pay money into the treasury of the commonwealth to meet the interest and sinking fund requirements and to meet the cost of maintenance and operation of such system, and shall transmit the determinations of the board to the treasurer of the commonwealth.

Apportionment to be determined by board.

SECT. 5. The amount of money required each year from every such city or town to meet the interest and sinking fund

Apportionment to be assessed with state tax.

requirements and cost aforesaid for that system in which it is included, and the deficiency, if any, shall be estimated by the treasurer of the commonwealth in accordance with the proportions as determined aforesaid by the metropolitan water and sewerage board, and shall be included and made a part of the sum charged to such city or town, and shall be paid by the city or town into the treasury of the commonwealth at the time required for the payment of its proportion of the state tax.

Not to affect
any decree of
supreme
judicial court.

SECT. 6. This act shall take effect upon its passage, but shall not modify or affect any decree of the supreme judicial court heretofore made. [*Approved May 8, 1906.*]

1906. — CHAPTER 406.

AN ACT TO PROVIDE FOR AN EXTENSION OF THE SOUTH METROPOLITAN SEWER THROUGH THE DISTRICTS OF WEST ROXBURY, BROOKLINE AND BRIGHTON.

Be it enacted, etc., as follows :

Extension of
south metro-
politan
system.

SECTION 1. The metropolitan water and sewerage board shall construct, maintain and operate as part of the south metropolitan system of sewage disposal, a sewer extending from the corner of Centre and Perkins streets in Jamaica Plain, through West Roxbury, Brookline and as far as Oak square in Brighton, substantially as outlined in the fourth annual report of said board, and in part execution of the plan outlined in said report.

Powers and
duties of
board.

SECT. 2. For the purpose of constructing and maintaining this additional sewer, the metropolitan water and sewerage board shall have and exercise all the authority conferred upon the metropolitan sewerage commissioners and their successors by chapter four hundred and twenty-four of the acts of the year eighteen hundred and ninety-nine and acts in amendment thereof and in addition thereto, and all the provisions of said chapter and other acts are hereby made applicable to this additional construction, unless herein otherwise provided.

Metropol-
itan Sewerage
Loan.

SECT. 3. To meet the expenses incurred under the provisions of this act the treasurer and receiver general shall, with the approval of the governor and council, issue from time to time bonds in the name and behalf of the commonwealth, and under its seal, to an amount not exceeding one million one hundred and seventy-five thousand dollars. The provisions of section fourteen of said chapter four hundred and twenty-four and of all acts in amendment thereof and in addition thereto relative to the indebtedness authorized by and incurred under that chapter shall, so far as they may be applicable, apply to the indebtedness authorized by this act, in the same manner as if the said provisions had been inserted herein. Any premium realized on the sale of said bonds shall be paid into the Metropolitan Sewerage Loan Sinking Fund, South System.

SECT. 4. The interest and sinking fund requirements on account of the moneys expended in constructing the extension of the south metropolitan sewer provided for in this act, and the cost and maintenance thereof shall be deemed a part of the interest and sinking fund requirements and costs provided for in said chapter four hundred and twenty-four, and shall be apportioned, assessed and collected in the manner provided by that chapter and by acts in amendment thereof and in addition thereto.

Payment of construction and cost of maintenance.

SECT. 5. This act shall take effect upon its passage.
[Approved May 21, 1906.]

1907. — CHAPTER 165.

AN ACT RELATIVE TO ASSESSMENTS FOR THE MAINTENANCE OF THE METROPOLITAN PARK, SEWER AND WATER DISTRICTS.

Be it enacted, etc., as follows :

SECTION 1. Annual appropriations shall be made for the maintenance of parks and boulevards under the charge of the metropolitan park commission, and for the maintenance of the north and south metropolitan systems of sewerage, and for the maintenance of the metropolitan water system under the control of the metropolitan water and sewerage board, and such appropriations shall be apportioned and assessed by the treasurer and receiver general in the manner now provided by law.

Annual appropriations shall be made for metropolitan system.

SECT. 2. Of the amount so assessed and collected, any balance remaining on the thirtieth day of November in any year shall be carried forward to the next year, and shall be taken into account in making the assessment for that year.

Balance to be carried to succeeding year.

SECT. 3. All acts and parts of acts inconsistent with this act are hereby repealed.

Repeal.

SECT. 4. This act shall take effect upon its passage.
[Approved March 4, 1907.]

III. METROPOLITAN WATER ACTS.

1895. — CHAPTER 488.

AN ACT TO PROVIDE FOR A METROPOLITAN WATER SUPPLY.

Be it enacted, etc., as follows :

SECTION 1. S. The governor, by and with the advice and consent of the council, shall appoint three water commissioners, who shall constitute the Metropolitan Water Board. Said commissioners shall hold office, one for the term of five years, one for

Metropolitan Water Board; appointment, term, etc.

Superseded by St. 1901, c. 168, 189 Mass. 417, 172 Mass. 289, 192 Mass. 571

the term of four years and one for the term of three years, beginning with the first Monday in May in the year eighteen hundred and ninety-five; and in the year eighteen hundred and ninety-eight, and annually thereafter, the governor shall appoint, as aforesaid, one member of said board to hold office for the term of three years, beginning with the first Monday in May in the year of his appointment. The governor, with the consent of the council, may remove any member of said board, and may appoint for the residue of the term, in the same manner in which the original appointment was made, a commissioner to fill any vacancy occurring by removal, resignation or otherwise. One of said commissioners shall be always a citizen of Boston, one shall be always a citizen of one of the other cities or towns in the water district hereinafter described, and one shall be always a citizen of this commonwealth. The chairman of said board shall receive a salary of five thousand dollars a year, and the other members a salary of four thousand five hundred dollars a year.

Compensation.

Chairman, appointment of, engineer, officers, etc.

SECT. 2. The governor shall, as soon as may be after the appointment of said board, and annually thereafter on or before the first Monday of May, designate one of their number to serve as chairman for the ensuing year; said board shall from time to time appoint an engineer, secretary, and such other agents, officers, clerks and other employees as said board may deem necessary, shall determine the duties and compensation of such appointees, and may remove the same at pleasure, and may employ counsel; shall at all times keep full, accurate and separate accounts of the doings, receipts, expenditures, disbursements, assets and liabilities of said board, and include an abstract of the same in an annual report to the general court on or before the first Wednesday in January in each year, such report to be numbered as one of the series of public documents; and four thousand five hundred copies thereof to be printed annually.

Accounts, annual report.

Construction of a system of metropolitan water works. Amended by Sts. 1896, c. 392; 1899, c. 349; 1907, c. 349.

Metropolitan Water District. 192 Mass. 465.

SECT. 3. S. Said board, acting for the commonwealth, shall construct, maintain and operate a system of metropolitan water works substantially in accordance with the plans and recommendations of the state board of health, contained in their report to the legislature of the year eighteen hundred and ninety-five, and shall provide thereby a sufficient supply of pure water for the following named cities and towns, and the inhabitants thereof, to wit: — The cities of Boston, Chelsea, Everett, Malden, Medford, Newton and Somerville, and the towns of Belmont, Hyde Park, Melrose, Revere, Watertown and Winthrop, which cities and towns shall constitute the Metropolitan Water District; shall secure and protect the purity of said water; shall on application furnish water to any city or town aforesaid that at the time of application owns its water pipe system; shall on application admit any other city or town, any part of which is within ten miles of the state house, into said water district, and furnish water to the same on the terms prescribed

by this act for the cities and towns aforesaid, and on such payment of money as said board may determine; shall on application furnish water to any water company owning the water pipe system in any town within said ten miles, on such water company assuming the assessments of the town, if any, and making such payment of money as said board may determine; and may from time to time furnish water to any other city, town or water company, on such payment of money as said board may determine. All payments of money aforesaid shall be distributed to the cities and towns in said district in proportion to the total amount of the annual assessments theretofore paid by them respectively. Said board shall furnish said water to the city, town or company, by delivering the same into a main water pipe, reservoir or tank of the city, town or company, under sufficient pressure for use without local pumping, unless delivered in some other manner by mutual agreement between the parties interested; and shall have the direction and control of the connections between the metropolitan and local systems. Said board may utilize the fall of water at any dam under their charge, and may thereby produce power or electricity, and may transmit such power or electricity by pipes, wires, or other suitable means and sell the same, or the right to use such water, by written or other contract, to run for a term not exceeding fifteen years. Any person or corporation authorized by said board shall have all the powers relating to the production, sale and transmission of power and electricity given by this act to said board.

Distributions
of payments
of money, fur-
nishing of
water, etc.

Production
and transmis-
sion of power
or electricity,
etc.

SECT. 4. Said board may take, by purchase or otherwise, the waters of the south branch of the Nashua river, at and above a point above the dam of the Lancaster Mills in the town of Clinton, but shall allow not less than twelve million gallons of water to flow from a reservoir above said dam in each week, and such further quantity, not exceeding twelve million gallons a week, as the owner of said mills shall from time to time certify to be necessary for use therein and in other buildings now or hereafter owned by him, for domestic and manufacturing purposes, other than the production of water power, and said board, in regulating the flow of said quantities, shall, as far as practicable, conform to any reasonable request in writing of the owner of said mills; said board may also take the waters of Sandy pond, so-called, in the town of Clinton, and the waters which may flow into and from said pond or river, and the tributaries thereof above said point; may take such water rights as they deem necessary connected with said waters; said board shall forthwith, after taking the waters of said Nashua river, take by purchase or otherwise all real estate which will be submerged or flooded, or submerged to an increased depth, by the construction of the proposed reservoir on the Nashua river hereinafter provided for, and all parcels of real estate above the dam of said reservoir used for mill purposes and owned by the owner of any mill property of which any part will

Taking and
regulation
of the flow
of certain
waters, &c.
183 Mass. 196.
183 Mass. 268,
270.

Property, etc.
183 Mass. 267.
169 Mass. 417.

be submerged or flooded by the construction of said reservoir, including all the machinery used on such real estate and tenements for operatives; shall, on or before the first day of January in the year eighteen hundred and ninety-eight, take all the lands and all the ponds, basins, reservoirs, filter-beds, dams, aqueducts, conduits, pumping stations, pipes, pumps and other property held by the city of Boston for the purchase of supplying water or for the purpose of storing or of protecting or preserving the purity of the water, and situated westward of Chestnut Hill reservoir in said city and westward of the intersections of the main pipes to be laid from Chestnut Hill reservoir to Spot pond, with the main pipes which convey water from the Mystic distributing reservoir; also the pumping station at Chestnut Hill reservoir and lands under and surrounding the same, and the pipes and aqueduct leading thereto; also Spot pond, so-called, in or near the town of Stoneham, and the lands under and surrounding the same, now owned by the cities of Malden and Medford and the town of Melrose, or either of them, held for the purpose of water supply or of protecting or preserving the purity of the water, and the pumping stations and pumps thereon; any or all of the aforesaid lands to be taken in fee or otherwise, as said board may determine. Said board may take any other lands in fee, easements, rights and other property that said board may deem necessary or desirable for carrying out the powers and duties conferred upon them by this act.

Description of
property taken
to be recorded.

SECT. 5. Said board, to take any property by right of eminent domain, shall sign and cause to be recorded in the registry of deeds for the county and district in which the property to be taken is situated, a statement containing a description thereof, as certain as is required in a common conveyance of land, and stating that the same is taken for the metropolitan water works; and upon such recording the ponds, works, lands, waters, easements, rights and other property described in said description shall be taken for the commonwealth. Said board, upon entering upon any land for the purpose of using the same for carrying out any of the purposes of this act, shall sign and cause to be recorded in the registry aforesaid a statement containing a general description of the land and the purposes for which it is to be used, and the probable time for which the same is to be used, and after they have taken any property under the right of eminent domain shall notify the owner thereof, and on the request of the owner within three years after such taking shall, within thirty days after such request, furnish him with a plan or description in writing, of his land or other property so taken.

Construction
storage reser-
voirs, etc.

SECT. 6. Said board shall forthwith, after taking the waters of said Nashua river, construct a storage reservoir upon said Nashua river above said dam of the Lancaster Mills; shall forthwith construct the reservoir in Southborough already partially constructed by the city of Boston, and the dams thereof, and assume and carry out the agreement made by said city with

the town of Southborough, and all contracts made by said city relating to the building of said reservoir; may construct other reservoirs, and may raise the level of any pond or reservoir under their charge. Said board may, as they deem desirable in constructing, or raising the level of, any pond or reservoir, raise or alter or discontinue parts of any railroad or public ways, and in case of a railroad shall make such raisings or alterations of the railroad, or construct upon existing or other locations, parts of the railroad to take the place of the parts so discontinued, as, and in such manner as, shall be mutually agreed upon by said water board and the board of directors of the railroad company; and if they cannot agree thereon then as, and in such manner as, shall be determined on the application of either party, in writing, by the board of railroad commissioners of this commonwealth, who are hereby authorized and directed to adjudicate finally upon the same; and if said water board shall be of the opinion that the making of any such change of grade, alteration or construction requires that lands be taken therefor, said board shall, in the name of the commonwealth, take such lands and convey the same to the railroad company to be thereafter held and used as the board of directors of such company may determine, and the railroad company may if it desires locate its lines over any lands so conveyed to it, and when said new lines of railroad are completed the railroad company may discontinue the operation of the portions of its existing lines for which the new lines are substituted, and may maintain and operate said new lines of railroad; and said water board shall build the dam of any pond or reservoir constructed, or whose level is raised, as aforesaid, and make the raisings or alterations of the public ways as aforesaid, and build in place of the parts of public ways discontinued as aforesaid, such other reasonable and suitable ways, which shall thereafter be highways, as, and in such manner as, shall be mutually agreed upon by said water board and the county commissioners of the county in which such dam is to be built; or if they cannot agree thereon then as, and in such manner as, shall be determined on the application of said board, in writing, by the highway commission of this commonwealth, which commission is hereby authorized and directed to adjudicate finally upon the same. Said water board, in flooding or otherwise affecting any burial ground, shall conform to any reasonable requirements relating thereto of the board of health of the city or town in which the same is situated.

Alteration or discontinuance of parts of railroads or public ways, etc.

Conveyance of certain lands.

Railroad companies may discontinue operation of certain parts of existing lines, etc.

Flooding or otherwise affecting burial grounds.

To connect pumping station at Chestnut Hill reservoir with certain main water pipes, etc.

SECT. 7. Said water board shall forthwith lay pipes to connect the pumping station at Chestnut Hill reservoir with the main water pipes through which water is now supplied to the cities of Somerville, Chelsea and Everett, and the Charlestown district of the city of Boston, and with Spot pond, and on the first day of January in the year eighteen hundred and ninety-eight the contracts of the city of Boston with the cities of Somerville, Chelsea and Everett, described in, and confirmed by, chapter three hundred and fifty-one of the acts of the year

Certain contracts cancelled.

eighteen hundred and eighty-six, for a supply of water, shall be cancelled. Said board shall also forthwith, after taking the waters of Nashua river as aforesaid, connect said river with the tributaries of said reservoir in Southborough.

Delivery of water for use in Lancaster Mills.

SECT. 8. Said board, until they shall have completed the dam of said proposed reservoir on the Nashua river, and rebuilt the dam of said Lancaster Mills, shall, unless otherwise agreed by said board and the owner of said mills, deliver each week day at, and at the level of, the present top of the dam of said mills at least one million gallons of the water of said river, unpolluted by any acts or doings of said board, conforming in the delivery of said quantity, so far as practicable, to any reasonable request in writing of the owner of said mills.

Construction of buildings, laying of pipes, etc.

SECT. 9. Said board in carrying out the powers and duties hereinbefore conferred upon them may construct and maintain buildings, machinery, roads, conduits and aqueducts; may lay and maintain pipes, drains and wires; may alter or change the grades or directions of any water course; may carry and conduct any aqueduct, conduit, pipe, drain or wire under or over any water course, or any railroad, street or other way, in such a manner as not unnecessarily to obstruct or impede travel thereon; may dig up any such road, street or way, and lay, maintain and repair aqueducts, conduits, pipes, wires and other works beneath the surface thereof, conforming to any reasonable regulations made by the mayor and aldermen of cities and the selectmen of towns, respectively, wherein such works are performed, and restoring, so far as practicable, any such road, street or way, to as good order and condition as the same was in when such digging was commenced; said board may enter upon and use the lands of others; may take down dams to such an extent as they may deem necessary for prosecuting their works, and shall rebuild such dams whenever the necessity for keeping them down ceases; shall use such lands and do all work relating to such dams, in a reasonable manner with regard to the interests of the owners thereof, and, so far as practicable, shall heed all reasonable requests made by such owners; and in general may do any other act or thing necessary or proper for carrying out the powers and duties conferred upon them by this act.

Entry upon and use of certain lands, etc.
172 Mass. 289.

Operation of works taken from city of Boston, etc.

SECT. 10. Said board, on or before the first day of January in the year eighteen hundred and ninety-eight, shall commence the operation of the works taken by them from the city of Boston, and shall thereafter keep the same and all water works constructed by them, and all bridges which they may build across said reservoir upon the Nashua river, and (until they abandon the same by notice in writing to said city) said Chestnut Hill reservoir, safe, and shall have charge of, use, maintain and operate the same, and the commonwealth shall exclusively be responsible for all damages caused thereby or by any defect or want of repair therein; said board shall have the exclusive right and control over all ponds and reservoirs used by them in

supplying water, and may order all persons to keep from entering in, upon or over, the waters thereof and the lands of the commonwealth, city or town, surrounding the same; may inspect the water works and fixtures in any city or town supplied wholly or in part from the works under their charge, and may take all proper measures to determine the amount of water used and wasted and to prevent the improper use or waste of water.

SECT. 11. Said board and any city, town or water company aforesaid, may agree with each other for the storing or pumping of water, or the furnishing of the same as aforesaid by either party to any city, town or company; and any such city, town or company may sell to said board, and said board may purchase any property of such city, town or company, whether taken by eminent domain or otherwise, that said board may deem desirable for use in furnishing, as aforesaid, water to any city, town or water company; and said board may sell at public or private sale any property, real or personal, whether taken by eminent domain or otherwise, no longer needed for the water works under their charge, or may from time to time lease any property not then so needed. The proceeds from the operations of said board shall be paid into the treasury of commonwealth.

Storing or
pumping of
water, pur-
chase of prop-
erty, etc.

SECT. 12. Said board shall incur such expenses as they deem necessary in constructing, operating and maintaining the water works under their charge; may agree with the party injured, upon the damages sustained by any city or town by the taking or use of its lands, ponds, reservoirs, water sources, aqueducts or other property, or the cancellation of contracts, as aforesaid; the damages sustained by the town of Clinton by any interference with its sewerage system or with its drainage rights or privileges; the damages sustained by any person or railroad or other corporation in property by any taking of property or by any change of grade, alteration or discontinuance of any railroad or public way, or by the construction or maintenance of any reservoir or other work, or by the interference with the use of any water, or by any other act or thing done by said board under this act; shall save harmless the several cities and towns within which any road, street or way is dug up as aforesaid, against all damages for injuries resulting from a defect or want of repair in any road, street or way, caused by such digging up, or by constructing, laying, maintaining or repairing any aqueduct, conduit, pipe, wire or other works therein, and shall furnish without charge to all towns within which any work is done under authority of this act such additional police protection as may be necessary in consequence thereof: *provided*, said board shall have due and reasonable notice of the claims for such damages and opportunity to make a legal defence thereto.

Board to incur
expenses
necessary in
constructing,
etc., water
works, etc.
178 Mass. 271.
182 Mass. 248,
249.
184 Mass. 279,
304.
185 Mass. 10.
186 Mass. 64.

Damages,
notice of
claims for.

SECT. 13. Said board, city, town, person or corporation, if they cannot agree upon any damages, sustained as aforesaid, may, except in the cases in which payment is otherwise provided for in this act, within two years after the day of the

Damages to be
determined by
a jury in cer-
tain cases, etc.
178 Mass. 267.
181 Mass. 315.

182 Mass. 197,
248.
184 Mass. 279,
305.

Benefits to be
taken into
account in
determining
damages, etc.

Agreement of
board with
owners of cer-
tain real
estate as to
damages, etc.

Amended by
Sta. 1898, c. 551;
1901, c. 505.
Extended by
Sta. 1899, c. 342;
1900, c. 105.
178 Mass. 267.
180 Mass. 579.
181 Mass. 316.
182 Mass. 192,
248, 248.
183 Mass. 373.
184 Mass. 279,
305.
185 Mass. 358,
390.
188 Mass. 59,
60, 582.
189 Mass. 273,
274.
192 Mass. 572.

Determination
of damages
by commis-
sions.

taking of any land, water, easements or other property, or of the use of any property, or of the making of any change of grade, alteration, discontinuance, or location of a way or railroad, or of the doing of any other act or thing causing the damage, file in the office of the clerk of the superior court for the county in which the property is taken, used or affected in value by such taking or other act of said board is situated, a petition signed by the petitioner or the attorney of the petitioner, for a jury to determine such damages, and thereupon, after such notice as said court shall order, the damages so sustained shall be determined by a jury in said court, in the same manner as damages for lands taken for highways are determined. In determining any damages caused by any change of grade or discontinuance of a public way or railroad, or the substitution of a part of a public way or railroad for another part, there shall be taken into account any benefit to the party injured received from this act and anything done thereunder. Interest shall be included in such damages from the date of the taking, or the doing of the act or thing causing the damages, and costs shall be taxed and execution issued as in civil cases, against the commonwealth in case the petitioner prevails, and against the petitioner in case he does not prevail. Damages for the temporary use of or injury to property may, on the request of the petitioner, be assessed by monthly payments, to be continued so long as the property is used.

SECT. 14. S. Said board, upon the application of the owner of any real estate taken for said proposed reservoir upon the Nashua river, or the owner of any real estate entered upon and used, or of any real estate injured by the taking of the waters of said Nashua river, whether said real estate is within or without the commonwealth, or of any real estate not taken but directly or indirectly decreased in value by this act or the doings of said board thereunder, situated in the town of West Boylston or in that part of the town of Boylston on the northerly side of said proposed reservoir, or in that part of the town of Clinton on either side of River or Grove streets, between the dam of said proposed reservoir and a line drawn from the northerly corner of Oak and Boylston streets to the northerly corner of said Grove and Nashua streets, and not owned on the first day of April in the year eighteen hundred and ninety-five, by the owner of the Lancaster Mills, may agree with such owner upon the damages to be paid for such taking, injury or decrease in value, and if said board and the owner of any such real estate cannot agree upon such damages, such owner may, within two years after the first taking of water, or of land for said reservoir, under the right of eminent domain, file in the clerk's office of the supreme judicial court for the county of Worcester, in term time or vacation, a petition for the determination of such damages, and thereupon said court, after notice by publication in some newspaper published in the county of Worcester, and in such other manner as the court may order,

that all persons entitled to file such petitions will be heard by said court on a day therein named, and a hearing thereon; shall from time to time appoint one or more commissions, each consisting of three disinterested persons, and may after notice and hearing fill any vacancy occurring in any such commission until all petitions referred to it have been heard and determined. Each of said commissions shall, after notice and hearing, determine the damages specified in all such petitions as may be filed as aforesaid and referred to it by said court; and if the owner of any such real estate, no part of which is taken but which is decreased in value, shall in the petition aforesaid signify his willingness to surrender the real estate, or if there is a mill thereon, the real estate and machinery thereon, to the commonwealth, the commission shall also determine the value of such real estate, or real estate and machinery, and interest may be included in such damages and in such value at such rate and for such time as the commission may deem just and equitable. Said commissions shall determine the damage to and value of real estate, machinery and business, and from time to time report their determinations on the petitions of such owners to said court. In case any individual or firm owning on the first day of April in the year eighteen hundred and ninety-five an established business on land in the town of West Boylston, whether the same shall be taken or not under this act, or the heirs or personal representatives of such individual or firm, shall deem that such business is decreased in value by the carrying out of this act, whether by loss of custom or otherwise, and unable to agree with said board as to the amount of damages to be paid for such injury, such damages shall be determined and paid in the manner hereinbefore provided. The words "real estate" as used in this section shall include water rights, and in the case of mills all machinery therein.

If owner surrenders certain real estate, etc., commission to fix value, etc.

Damages to certain established business.

SECT. 15. Said board shall, upon agreeing upon any damages, or upon the acceptance by said court of any determination specified in the preceding section, notify the owner that they will pay the damages, or, in case the petitioner offers to make surrender, if they so prefer, they will pay the value so agreed upon or determined, and if any such owner shall in accordance with such notice and within one year after being so notified, deliver a release of such damages or a deed of the real estate, to and satisfactory to, said water board, said water board shall certify to the treasurer of the commonwealth the amount to be paid such owner, and said treasurer shall pay the same from the proceeds of the bonds hereinafter provided for. Said water board, or any persons whose property is taken under the right of eminent domain, or entered upon or injured by the taking of said water, if dissatisfied with any determination of damages made by any commission, may at the term on which such determination is filed in court, or at the succeeding term, claim a trial by jury to determine such damages, and thereupon the

Payment of damages, etc.
178 Mass. 267, 271.
181 Mass. 315.
182 Mass. 246, 248, 249.
183 Mass. 374.
184 Mass. 282, 304.
189 Mass. 274.

Damages may be determined by jury in certain cases.
182 Mass. 245.
183 Mass. 373.
189 Mass. 273.

damages shall be determined by a jury in said supreme judicial court as provided in section thirteen of this act.

Reimburse-
ment of Boston
for land
damages.

Amended by
Sts. 1896, c. 436;
1897, c. 467.

SECT. 16. S. The treasurer of the commonwealth shall, from the proceeds of the bonds hereinafter provided for, reimburse the city of Boston for all moneys paid or that may hereafter be paid by said city for land damages, or otherwise, in connection with the location, building or maintenance of reservoirs or basins not yet built, or for lands taken for the preservation or protection of the purity of the waters of any reservoirs, or basins or of the tributaries thereof, and shall pay as part of the expenses of said metropolitan water works to the town of Boylston the sum of two thousand dollars a year and to the town of West Boylston the sum of twelve thousand dollars a year for the year of and each year succeeding said taking of the waters of said Nashua river, so long as each of said towns remains a municipality, and shall pay no tax or other payment to either of said towns on account of any property held by said water board for the purposes of a water supply.

Metropolitan
Water Loan.
Affected by
St. 1906, c. 387.

SECT. 17. The treasurer and receiver general shall, from time to time, on the request of said board, issue negotiable bonds in the name and behalf of the commonwealth, and under its seal, to an amount not exceeding twenty-seven million dollars, designated on the face thereof, Metropolitan Water Loan. Said bonds shall be deemed a pledge of the faith and credit of the commonwealth, shall be countersigned by the governor; shall have the principal and interest made payable thereon, in gold coin of the United States of America or its equivalent; shall bear interest payable semi-annually on the first days of January and July of each year; shall be registered, or with interest coupons attached; shall be payable within such terms not less than thirty nor more than forty years, and shall bear such rates of interest not exceeding four per cent. per annum, and be issued and disposed of in such amounts and in such modes and at such times and prices as the treasurer and receiver general, with the approval of the governor, shall from time to time determine. Said treasurer shall, on issuing any of said bonds, establish a sinking fund and determine the amount to be paid thereto each year, sufficient with its accumulations to extinguish the debt at maturity.

Sinking fund.

Disposition of
proceeds from
sales of
property and
bonds, etc.
Extended by
St. 1898, c. 464.

SECT. 18. Said treasurer shall apply the proceeds from the sales of property made as hereinbefore provided, and the proceeds from the sales of said bonds, exclusive of the amounts received from premiums, to the payments for the property taken by said board, the payment of the damages aforesaid, and the payment of the expenses of construction of said water works, and the other payments specified in this act, and shall apply any premiums received from sales of said bonds, any assessments hereinafter provided for paid by the cities and towns, and the proceeds from the operations of said board, exclusive of the proceeds from sales of property, to the payment of the interest, sinking fund requirements and expenses of maintenance and operation

of said water works, and shall take the balance required for said payments, if any, from the proceeds of said bonds, and shall apply the surplus, if any, to the payment of said interest, sinking fund requirements and expenses, for the following year. Said treasurer shall advance to such person as shall have been designated by said water board and shall have given a bond with sufficient sureties, to be approved by the auditor of the commonwealth, in the sum of ten thousand dollars, such sums, not exceeding ten thousand dollars at any time, as said auditor may certify to be necessary to enable said board to make direct payment upon the pay rolls and other accounts of said board, and such persons shall, as soon as may be after expending any sum so advanced, and in all cases within thirty days from the receipt of any such sum, file with the auditor a statement in detail of the moneys expended subsequent to the last previous accounting, approved by said water board, and where it is practicable to obtain them, also file receipts or other like vouchers of the persons to whom the payments have been made.

Certain sums to be advanced.

Statement of expenditures, etc., to be filed.

SECT. 19. S. Said treasurer shall in each year estimate the amount, in addition to the premiums from sales of said bonds and the proceeds from the operations of said board, exclusive of the proceeds from sales of property, required during the year to pay the interest, sinking fund requirements, expenses of maintenance and operation of said water works, and shall apportion to the city of Boston the proportion of such amount that the valuation of said city for the preceding year bears to the total of all such valuations of all cities and towns in said water district: *provided, however*, there shall be included only one sixth of the total valuation of any such city and town which has not reached the safe capacity of its present sources of supply in a dry year, as determined by said water board and certified to said treasurer, and has not made application to said board for water, and the remainder to the other cities and towns in said district, one third in proportion to their respective valuations and the remaining two thirds in proportion to their respective populations, including, however, only one sixth of the total valuation and one sixth of the total population of any such city and town which has not reached the safe capacity of its sources or of the sources of supply of the water company by which a town is supplied, or has not made application for water as aforesaid; and *provided, further*, that any city or town assessed upon its full valuation and population, which furnishes a part of its water supply from its own works or receives a supply from a water company, shall be allowed and credited in its apportionment with a sum equal to twelve dollars for each million gallons of water furnished as aforesaid, as determined by said water board and certified to said treasurer, and *provided, further*, that no such amount shall be apportioned until the year eighteen hundred and ninety-eight, and in said year only the amount of three hundred thousand dollars shall be apportioned, and the sums of money expended by the state board of health under

Treasurer to estimate amount required for payment of expenses, etc. Amended by St. 1901, c. 489.

Proportion paid by city of Boston.

chapter four hundred and fifty-nine of the acts of the year eighteen hundred and ninety-three and chapter four of the resolves of the year eighteen hundred and ninety-five, and in the succeeding years the said amount of three hundred thousand dollars and two hundred thousand dollars additional for each year thereafter shall be so apportioned until the entire amount required as aforesaid is reached, and thereafter such entire amount shall be so apportioned. Said treasurer shall in each year notify each city and town of the amount of its assessment, and the same shall be paid by the city or town into the treasury of the commonwealth at the time required for the payment and as a part of its state tax.

Change and control of certain water courses, etc., in system.

Distribution of water, etc.

Rate to be paid for water.

Powers and duties of certain officers, etc.

Payment of expenses, etc.

SECT. 20. The water board, water commissioners or superintendent of any city or town in the metropolitan water district, shall, for their respective cities or towns, on and after the first day of January in the year eighteen hundred and ninety-five, have the charge and control of the water sources, water and water works owned and used by said city or town and not taken or used by said metropolitan water board as herein provided. Said water board, water commissioners or superintendent shall distribute and control the use of the water so furnished, and apply meters and extend the pipes and other work as said water board, water commissioners or superintendent may deem expedient; shall keep the pipes, fixtures and other works under their charge in good condition and repair, but shall not expend in any year more than the amount appropriated by the city or town therefor. Said water board, water commissioners or superintendent, with the approval of the mayor or selectmen, shall determine the rate to be paid for water by the owner of the premises to which the water is furnished, or by the person or persons using the water: *provided, however*, that the minimum rates to be paid for water, and the premises to which the high service supply shall be furnished, shall be subject to the approval of said metropolitan water board. Any water board, water commissioner or superintendent as aforesaid shall for the water works under his charge do all the acts and things relating to buildings, machinery, roads, conduits, aqueducts, pipes and drains, which said metropolitan water board is authorized to do for the water works under their charge, and may take lands therefor, in fee or otherwise, and shall do all such acts and things and make all such takings in the manner in which said metropolitan water board are authorized to do similar things, and the damages sustained shall be recovered of, and paid by, the city or town for which such water board, water commissioners or superintendents are appointed or elected, in the same manner as damages caused by similar acts of said metropolitan water board are recovered of, and paid by, the commonwealth.

SECT. 21. The income received in each city or town from the water works under the charge of its water board, water commissioners or superintendent, shall be applied to the pay-

ment of the expenses of maintenance and operation incurred by said water board, water commissioners or superintendent; the interest and sinking fund requirements of all bonds, notes or scrip of the city or town issued on account of the water works of such city or town; the assessment of the city or town to be paid to the treasurer of the commonwealth as hereinbefore provided; the expenses of the extension of the works; and the balance, if any, as the city or town may determine. If such income in any year shall not be sufficient for said payments the balance required therefor shall be raised by taxation or by loan, as the city or town may determine; and the city or town is hereby authorized to assess such taxes and make such loans without further authority from the legislature.

Certain sums to be raised by taxation, etc.

SECT. 22. S. The towns of Clinton, Sterling, Boylston, West Boylston, Lancaster, Holden, Rutland, Princeton, Paxton and Leicester, and the city of Worcester, may take from the south branch of the Nashua river, above the dam of the proposed reservoir on said river, so much of the water thereof as they have already been or may hereafter be authorized by the legislature to take, for supplying their inhabitants with water, and in case either of the towns of Lancaster, Holden, Rutland, Princeton, Paxton or Leicester, or the city of Worcester, shall so take water, it shall pay to the commonwealth, to be paid into the sinking funds for said bonds, a fair proportion of the cost incurred by the commonwealth for said water and for the construction, maintenance and operation of said works, the same to be determined by the engineer of said board and an engineer to be appointed by the city or town, and if they cannot agree, the proportion shall be determined by a master to be appointed by the supreme judicial court on the petition of either party interested, and the report of such master made and accepted by said court shall be final and binding on all parties.

Taking of water by certain outside cities and towns.

Amended by St. 1897, c. 466.

SECT. 23. S. No city or town, any part of which is within ten miles of the state house, or any water company owning a water pipe system in any such city or town shall, except in case of emergency, use, for domestic purposes, water from any source not now used by it except as herein provided or as shall be hereafter authorized by the legislature. If any town or towns in said district shall take the franchise, works and property in such town or towns, of any water company, the compensation to be allowed and paid therefor shall not be increased or decreased by reason of the provisions of this act. No town in said water district now supplied with water by a water company owning the water pipe system in such town, shall introduce water from the metropolitan water works until it shall first have acquired the works of such company.

Restriction of use of water by cities, towns and water companies.
174 Mass. 514, 515.

Amended by St. 1897, c. 836.

SECT. 24. The state board of health is hereby authorized and required to make rules and regulations for the sanitary protection of all waters used by the metropolitan water board for the water supply of any city, town or water company aforesaid, and to transfer and deliver to said water board, such plans,

Sanitary protection of water, etc.
185 Mass. 10.

maps and other information in their possession as will assist said board in carrying out the provisions of this act.

Corruption or improper use of water, etc., prohibited.

SECT. 25. No person shall take or divert any water of a water supply of any city or town in said water district from any water source, reservoir, conduit or pipe used for supplying such water to, or in any such city or town, or occupy, injure or interfere with any such water, or with any land, building, aqueduct, pipe, drain, conduit, hydrant, machinery or other work or property so used, and no person shall corrupt, render impure, waste or improperly use, any such water.

Provisions of preceding section not to apply to certain taking or diverting of water, etc.

SECT. 26. The provisions of the preceding section shall not apply to any person in taking or diverting any such water or interfering with or occupying any water, land or works therein described, by permission of said metropolitan water board, or the water board, water commissioners or superintendent of any city or town having charge of the land, water or work; nor to the individual inhabitants of any city or town within the watershed of any water supply used by said metropolitan water board, or by any city or town aforesaid, in taking from the part of the supply or from the tributaries of the supply within their respective city or town limits so much of the water thereof as they shall need for their ordinary domestic household purposes, for extinguishing fires, or for generating steam.

Enforcement of provisions, etc.
185 Mass. 10.

SECT. 27. Said metropolitan water board, and their employees designated for the purpose, shall enforce the provisions of this act, and of the rules, regulations and orders made thereunder, and may enter into any building, and upon any land for the purpose of ascertaining whether sources of pollution there exist, and whether the provisions of this act and of the rules, regulations and orders made as aforesaid are complied with; and, where the enforcement of any such provisions, rules, regulations or orders will require public works for the removal or purification of sewage, said metropolitan water board shall not enforce the same until they have provided such works, and the amount paid therefor shall be considered as part of the expenses of construction of the metropolitan water works, and such works shall be maintained and operated as a part of said water works.

Certain courts, etc., to have jurisdiction to enforce provisions, etc.
181 Mass. 315.
186 Mass. 11.

SECT. 28. The supreme judicial court or any justice thereof, and the superior court or any justice thereof, shall, in term time or vacation, on the petition of said board or any city, town, corporation or person interested, or of the attorney of any such petitioner, have jurisdiction in equity or otherwise to enforce the provisions of this act, and of any rule, regulation or order made under the authority of this act, and to prevent any violation of said provisions, rules, regulations or orders.

Penalties.

SECT. 29. Whoever shall do any of the acts herein prohibited, or shall violate or refuse to comply with any rule, regulation or order made under the authority of this act shall, on complaint or indictment therefor and conviction thereof, be punished for each offence by a fine not exceeding five hundred

dollars, to be paid to the commonwealth, or by imprisonment not exceeding one year in the house of correction, or by both such fine and imprisonment.

SECT. 30. S. All general laws relating to the water supplies of cities and towns or the lands and other property used for such supplies shall, so far as they are not inconsistent with the provisions of this act, apply to and be observed in carrying out the purposes of this act.

Certain general laws to apply.

Amended by St. 1897, c. 827. 185 Mass. 10, 13.

SECT. 31. In the construction of these works preference in employment shall be given to citizens of this commonwealth.

Preference in employment to be given to citizens.

SECT. 32. This act shall take effect upon its passage.

[Approved June 5, 1895.]

1896. — CHAPTER 436.

AN ACT RELATIVE TO THE COMPENSATION FOR DAMAGES OCCASIONED BY THE CONSTRUCTION OF THE METROPOLITAN WATER SYSTEM.

Be it enacted, etc., as follows:

SECTION 1. Section sixteen of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five is hereby amended by striking out in the eleventh line, the word "two", and inserting in place thereof the word: — three,—so as to read as follows: — *Section 16.* The treasurer of the commonwealth shall, from the proceeds of the bonds hereinafter provided for, reimburse the city of Boston for all moneys paid or that may hereafter be paid by said city for land damages, or otherwise, in connection with the location, building or maintenance of reservoirs or basins not yet built, or for lands taken for the preservation or protection of the purity of the waters of any reservoirs, or basins or of the tributaries thereof, and shall pay as part of the expenses of said metropolitan water works to the town of Boylston the sum of three thousand dollars a year and to the town of West Boylston the sum of twelve thousand dollars a year for the year of and each year succeeding said taking of the waters of said Nashua river, so long as each of said towns remains a municipality, and shall pay no tax or other payment to either of said towns on account of any property held by said water board for the purposes of a water supply.

Amendment to St. 1895, c. 488, § 16. Reimbursement of Boston for land damages.

SECT. 2. This act shall take effect upon its passage.

[Approved May 27, 1896.]

1896. — CHAPTER 450.

AN ACT RELATIVE TO THE COMPENSATION OF EMPLOYEES IN WEST BOYLSTON.

Be it enacted, etc., as follows :

Certain persons deprived of employment in West Boylston may file claim for damages.
1896, 488, § 12.

SECTION 1. Any resident of the town of West Boylston employed by any corporation, partnership or individual at the time when the plant of such corporation, partnership or individual is taken, and work therein stopped, on account of a reservoir for the metropolitan water supply, and who is obliged by reason of such taking to seek employment elsewhere, shall have the right for one year from the termination of such employment as aforesaid to file a claim for damages with the metropolitan water commission, and if the same is not settled within sixty days from the filing thereof, he may bring a bill in equity in the superior court for the county of Worcester for the adjudication and collection of such damage. Any number of persons deprived of employment as aforesaid may unite in such bill, and the withdrawal of any shall not prejudice the rights of others.

Court to ascertain certain facts, etc.

SECT. 2. It shall be the duty of the court to ascertain whether or not such claimants have resided and been employed and deprived of employment as specified in this act, and if so to issue a decree in favor of each to recover the actual damage which he has suffered by reason of such loss of employment, not however to exceed the sum of his wages for six months at the rate of wages paid to him for the last six months prior to such suspension of employment.

Certain employees not entitled to receive compensation.

SECT. 3. No person shall be entitled to receive compensation under this act unless he shall have been employed in the town of West Boylston continuously from the date when chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five, entitled "An Act to provide for a metropolitan water supply", became a law, up to the date of the taking of the property wherein said person is employed.

Stockholders not entitled to receive compensation.

SECT. 4. No stockholder of any corporation whose plant is taken on account of a reservoir for said metropolitan water supply shall be entitled to receive compensation under this act.

SECT. 5. This act shall take effect upon its passage.

[Approved May 28, 1896.]

1897. — CHAPTER 327.

AN ACT RELATIVE TO PROPERTY HELD BY THE METROPOLITAN WATER BOARD.

Be it enacted, etc., as follows :

Amendment to St. 1895, c. 488, § 30.

SECTION 1. Section thirty of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-

five is hereby amended by striking out the whole of said section and inserting in place thereof the following: — *Section 30.* All general laws relating to the water supplies of cities and towns, and property held for such supplies, including chapter three hundred and fifty-two of the acts of the year eighteen hundred and ninety-three, shall, so far as they are applicable and not inconsistent with the provisions of this act, apply to the metropolitan water supply and the lands held and used by the metropolitan water board for said water supply, in cities and towns other than the towns of Boylston and West Boylston.

Certain general laws to apply.

SECT. 2. This act shall take effect upon its passage.

[Approved April 29, 1897.]

1897. — CHAPTER 336.

AN ACT TO REGULATE THE PRICE TO BE CHARGED FOR WATER BY WATER COMPANIES IN THE METROPOLITAN DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. Section twenty-three of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five is hereby amended by adding at the end thereof the words: — and no such company shall be entitled to charge more for water than a reasonable sum, measured by the price ordinarily charged for a similar service in other cities and towns in the metropolitan district. The selectmen of a town or any persons deeming themselves aggrieved by the price charged for water by any such company may, in the year eighteen hundred and ninety-eight and every fifth year thereafter, apply by petition to the supreme judicial court, asking to have the rate fixed at a reasonable sum, measured by the standard above-specified; and two or more judges of said court, after hearing the parties, shall establish such maximum rates as said court shall deem proper; and said maximum rates shall be binding upon said water company until the same shall be revised or altered by said court pursuant to this act, — so as to read as follows: —

Amendments to St. 1895, c. 488, § 23.

Section 23. No city or town, any part of which is within ten miles of the state house, or any water company owning a water pipe system in any such city or town shall, except in case of emergency, use for domestic purposes water from any source not now used by it except as herein provided or as shall be hereafter authorized by the legislature. If any town or towns in said district shall take the franchise, works and property in such town or towns, of any water company, the compensation to be allowed and paid therefor shall not be increased or decreased by reason of the provisions of this act. No town in said water district now supplied with water by a water company owning the water pipe system in such town, shall introduce water from the metropolitan water works until it shall first have acquired the works of such company; and no such

Restriction of use of water by cities, towns, water companies, etc. 174 Mass. 514.

company shall be entitled to charge more for water than a reasonable sum, measured by the price ordinarily charged for a similar service in other cities and towns in the metropolitan district. The selectmen of a town or any persons deeming themselves aggrieved by the price charged for water by any such company may, in the year eighteen hundred and ninety-eight and every fifth year thereafter, apply by petition to the supreme judicial court, asking to have the rate fixed at a reasonable sum, measured by the standard above specified; and two or more judges of said court, after hearing the parties, shall establish such maximum rates as said court shall deem proper; and said maximum rates shall be binding upon said water company until the same shall be revised or altered by said court pursuant to this act.

SECT. 2. This act shall take effect upon its passage.

[Approved May 1, 1897.]

1897. — CHAPTER 339.

AN ACT TO REQUIRE BONDS TO BE GIVEN UNDER CERTAIN CONTRACTS MADE BY THE METROPOLITAN WATER BOARD.

Be it enacted, etc., as follows:

Bonds required in certain contracts by board.
Amended by
St. 1901, c. 442.

It shall be the duty of the metropolitan water board in making contracts for the construction of the metropolitan water works to require every employer of labor engaged in the construction of said works to give to each city or town in which such labor may be employed a bond in the penal sum of three thousand dollars, conditioned to save harmless and indemnify such city or town against any loss, expense or charges that said city or town may legally incur because of pauper or indigent employees brought to said town and having no settlement therein.

[Approved May 5, 1897.]

1897. — CHAPTER 445.

AN ACT RELATIVE TO THE COMPENSATION FOR DAMAGES IN THE TOWN OF STERLING OCCASIONED BY THE CONSTRUCTION OF THE METROPOLITAN WATER SYSTEM.

Be it enacted, etc., as follows:

Damages in the town of Sterling occasioned by construction of metropolitan water system.

Extended by
St. 1899, c. 342.
184 Mass. 282.

SECTION 1. The owner of any real estate situated in that part of the town of Sterling on the southerly and westerly side of Stillwater river, not taken but directly or indirectly decreased in value by chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five entitled "An Act to provide for a metropolitan water supply", or by the doings of the metropolitan water board thereunder, and any individual or

firm owning, on the first day of April in the year eighteen hundred and ninety-five, an established business on land in said part of the town of Sterling, or the heirs or personal representatives of such individual or firm, who shall deem that such business is decreased in value, whether by loss of custom or otherwise, by the carrying out of said act to provide for a metropolitan water supply, shall have the same right to damages for such decrease in value, to be determined and recovered in the same way, as is provided for owners of real estate or of an established business in the town of West Boylston by said chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five.

SECT. 2. The treasurer of the commonwealth shall pay hereafter as a part of the expenses of the metropolitan water works annually on or before the thirty-first day of December to the town of Sterling an amount equal to the assessment made by the assessors of the town of Sterling as of the first day of May in the year eighteen hundred and ninety-four, on all real estate taken or acquired, and held by the metropolitan water board on the first day of May in each year, under authority of said chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five and acts in amendment thereof, so long as said property is held by said metropolitan water board, such payment to be in place of taxes and any other payment required by law upon such property.

Payment to
Sterling of a
certain annual
sum.
1895, 488, § 16.

SECT. 3. This act shall take effect upon its passage.

[Approved June 2, 1897.]

1897. — CHAPTER 456.

AN ACT TO REQUIRE CERTAIN PAYMENTS BY MUNICIPALITIES
TAKING WATER FROM THE SOUTH BRANCH OF THE NASHUA
RIVER, IN CERTAIN CASES.

Be it enacted, etc., as follows :

Section twenty-two of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five is hereby amended by striking out in the fourteenth and fifteenth lines, the words "and for the construction, maintenance and operation of said works, the same to", and inserting in place thereof the following:—and if the water is taken from the river above said reservoir shall pay in addition a fair proportion of the cost of maintaining the purity of said water above the point of said taking; and if the water is taken from said reservoir it shall pay in addition a fair proportion of the cost of maintaining the purity of said water and of the cost of constructing and maintaining said dam and reservoir. Said proportions shall,— so as to read as follows:— *Section 22.* The towns of Clinton, Sterling, Boylston, West Boylston, Lancaster, Holden, Rutland, Princeton, Paxton and Leicester, and the city of Worcester, may

Amendment
to St. 1895, c.
488, § 22.

Taking of
water by cer-
tain outside
cities and
towns.

take from the south branch of the Nashua river, above the dam of the proposed reservoir on said river, so much of the water thereof as they have already been or may hereafter be authorized by the legislature to take, for supplying their inhabitants with water, and in case either of the towns of Lancaster, Holden, Rutland, Princeton, Paxton or Leicester, or the city of Worcester, shall so take water, it shall pay to the commonwealth, to be paid into the sinking funds for said bonds, a fair proportion of the cost incurred by the commonwealth for said water, and if the water is taken from the river above said reservoir it shall pay in addition a fair proportion of the cost of maintaining the purity of said water above the point of said taking; and if the water is taken from said reservoir it shall pay in addition a fair proportion of the cost of maintaining the purity of said water and of the cost of constructing and maintaining said dam and reservoir. Said proportion shall be determined by the engineer of said board and an engineer to be appointed by the city or town, and if they cannot agree, the proportion shall be determined by a master to be appointed by the supreme judicial court on the petition of either party interested, and the report of such master made and accepted by said court shall be final and binding on all parties.

[Approved June 3, 1897.]

1897. — CHAPTER 467.

AN ACT RELATIVE TO COMPENSATION FOR LOSS OF TAXES OCCASIONED BY THE CONSTRUCTION OF THE METROPOLITAN WATER SYSTEM.

Be it enacted, etc., as follows:

Amendment
to St. 1896, c.
488, § 16.

SECTION 1. Section sixteen of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five, as amended by section one of chapter four hundred and thirty-six of the acts of the year eighteen hundred and ninety-six, is hereby amended by adding at the end thereof the following words: — *provided, however*, that the commonwealth shall pay annually, on or before the thirty-first day of December, to the towns of West Boylston and Boylston, until such time as the payments to said towns hereinbefore set forth become due and payable, an amount equal to the assessment made by the assessors of each of said towns as of the first day of May in the year eighteen hundred and ninety-four, on all property in their towns taken or acquired on or before the first day of May in such year, under the authority of this act; and shall pay to said towns annually, on or before the thirty-first day of December, an amount equal to the assessment made as aforesaid on all real estate in their towns so taken or acquired on or before the first day of May in each year by the commonwealth, outside the limits of said proposed reservoir, so long as the same shall remain the property of the commonwealth; and *provided, fur-*

ther, that no part of the fifty-one hundred and sixty-three acres described in the report of the state board of health on a metropolitan water supply made to the general court in the year eighteen hundred and ninety-five as necessary for said reservoir and the margin around the same shall be included in determining the amount to be paid in consequence of the taking of property outside the limits of said reservoir and margin, — so as to read as follows: — *Section 16.* The treasurer of the commonwealth shall, from the proceeds of the bonds hereinafter provided for, reimburse the city of Boston for all moneys paid or that may hereafter be paid by said city for land damages, or otherwise, in connection with the location, building or maintenance of reservoirs or basins not yet built, or for lands taken for the preservation or protection of the purity of the waters of any reservoirs, or basins or of the tributaries thereof, and shall pay as part of the expenses of said metropolitan water works to the town of Boylston the sum of three thousand dollars a year and to the town of West Boylston the sum of twelve thousand dollars a year for the year of and each year succeeding said taking of the waters of said Nashua river, so long as each of said towns remains a municipality, and shall pay no tax or other payment to either of said towns on account of any property held by said water board for the purposes of a water supply: *provided, however,* that the commonwealth shall pay annually, on or before the thirty-first day of December, to the towns of West Boylston and Boylston, until such time as the payments to said towns hereinbefore set forth become due and payable, an amount equal to the assessment made by the assessors of each of said towns as of the first day of May in the year eighteen hundred and ninety-four, on all property in their towns taken or acquired on or before the first day of May in such year, under the authority of this act; and shall pay to said towns annually, on or before the thirty-first day of December, an amount equal to the assessment made as aforesaid on all real estate in their towns so taken or acquired on or before the first day of May in each year by the commonwealth, outside the limits of said proposed reservoir, so long as the same shall remain the property of the commonwealth; and *provided, further,* that no part of the fifty-one hundred and sixty-three acres described in the report of the state board of health on a metropolitan water supply made to the general court in the year eighteen hundred and ninety-five as necessary for said reservoir and the margin around the same shall be included in determining the amount to be paid in consequence of the taking of property outside the limits of said reservoir and margin.

Reimburse-
ment of Boston
for land dam-
ages.

SECT. 2. This act shall take effect upon its passage.

[Approved June 5, 1897.]

1897.—CHAPTER 473.

AN ACT TO SUPPLY THE TOWN OF STONEHAM WITH WATER.

Be it enacted, etc., as follows:

Admission of
Stoneham into
the metropol-
itan water dis-
trict, etc.
1895, 48^c, §§ 3,
23.

SECTION 1. The metropolitan water board shall on application admit the town of Stoneham into the metropolitan water district, and furnish water to the same on the terms prescribed by chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five for the cities and towns included in said metropolitan water district, and on such payment of money as said board may determine; and said town of Stoneham may supply itself and its inhabitants with water for the extinguishment of fires and for domestic and other purposes, obtaining the same from said board, by applying to be admitted into said district; and may establish fountains and hydrants, relocate or discontinue the same, may regulate the use of such water and fix and collect rates to be paid for the use of the same.

Rights and
privileges of
Stoneham.

SECT. 2. Said town, for the purposes aforesaid, may hold and convey the water to be furnished by said metropolitan water board as hereinbefore provided, through said town, and may also take and hold, by purchase or otherwise, all lands, rights of way and easements necessary for holding, storing, purifying and preserving such water and for conveying the same to any part of said town of Stoneham; and may erect on the lands thus taken or held proper dams, reservoirs, buildings, fixtures or other structures; and may make excavations, procure and operate machinery, and provide such other means and appliances as may be necessary for the establishment and maintenance of complete and effective water works; and may construct and lay down conduits, pipes and other works, under and over any lands, watercourses, railroads or public or private ways, and along any such way, in such manner as not unnecessarily to obstruct the same; and for the purpose of constructing, maintaining and repairing such conduits, pipes or other works, and for all proper purposes of this act, said town may dig up any such lands, and may enter upon and dig up any such ways in such manner as to cause the least hindrance to public travel thereon. The title to all lands taken or purchased under the provisions of this act shall vest in said town, and the land so taken may be managed, improved and controlled by the board of water commissioners hereinafter provided for, in such manner as they shall deem for the best interests of said town.

Stoneham may
purchase cer-
tain property
of Wakefield
Water Com-
pany.

SECT. 13. If within thirty days after this act shall have been accepted by the town of Stoneham, as hereinafter provided, the Wakefield Water Company shall notify the chairman of the board of selectmen of said town in writing that it desires to sell to said town such portion of its mains, pipes, hydrants,

gates and fixtures as are situated within the territorial limits of the town of Stoneham and are now used for the purpose of supplying said town and its inhabitants with water, excepting however its standpipe and all main pipes through which water is supplied to said standpipe or to the town of Wakefield or its inhabitants, reserving the right to use the property which it desires to sell, as aforesaid, for supplying said town of Stoneham and the inhabitants thereof with water, at rates not exceeding those charged therefor at the time of the passage of this act, for a period not exceeding two years, terminating whenever said town of Stoneham, having voted to purchase as hereinafter provided, shall notify said company in writing that thereafter it desires the exclusive use of said property, said company agreeing to continue to use said property for so supplying water, and to keep the same in good repair for such period, and further agreeing that at the end of said period it shall cease to have any right to supply said town of Stoneham or its inhabitants with water in any manner, and shall file with the town clerk of said town a specification and description of said property, said town shall not proceed to construct a distributing system for the water to be supplied to it and its inhabitants, under the authority of this act, unless it shall have first purchased of said company the property aforesaid; and said company is authorized to make sale of said property to said town, and said town is authorized to purchase the same and manage and use the property thus conveyed for the purposes and under the provisions of this act. Whenever, within one year from the passage of this act, said town shall by a majority vote of the legal voters of said town present and voting thereon at a legal meeting called for that purpose, or at any annual town meeting, vote to purchase said property,¹ notice of the desire of said company to sell the same having been given as hereinbefore provided, said property shall thereupon become the property of said town, and said town shall pay to said company a fair value thereof, to be ascertained as hereinafter provided. In case said town and said company, after conference thereon, shall be unable to agree upon the value of said property, the supreme judicial court shall, upon application by either party and notice to the other, appoint three commissioners, one of whom shall be learned in the law and one a skilled engineer, who shall determine the fair value of said property, without allowance for past, present or future earnings or earning capacity, good will or any franchise or privilege of said company, and whose award, when accepted by the court, shall be final; but said company shall not be entitled to receive any payment as hereinbefore provided so long as any lien or other incumbrance remains upon said property or any part thereof, unless said commissioners shall otherwise determine, and said award shall not be paid until the time when said company shall finally cease to supply water to said town of Stoneham and its inhabit-

Commissioners to be appointed to determine value of property in case of failure to agree, etc.

¹Town voted to purchase May 29, 1901.

ants, as hereinbefore provided, and it shall draw interest onl from that time.

Acceptance of act.

SECT. 14. This act, except as provided in section fifteen, shall take effect upon its acceptance by a majority vote of the voters of the town of Stoneham present and voting thereon at a legal town meeting called for the purpose within one year from its passage; but the number of meetings so called shall not exceed three.¹

When to take effect.

SECT. 15. So much of this act as authorizes the submission of the question of its acceptance to the legal voters of said town shall take effect upon its passage, but it shall not take further effect unless and until accepted as hereinbefore provided by the qualified voters of said town.

[Approved June 7, 1897.]

1898. — CHAPTER 166.

AN ACT RELATIVE TO THE METROPOLITAN WATER BOARD.

Be it enacted, etc., as follows :

Metropolitan water board may make agreements for care of certain lands, etc. 1896, 488, § 10.

SECTION 1. The metropolitan water board may make agreements with the metropolitan park commission, or with any park commission or any officer or board of any city or town in which any lands, rights, easements, or interest in lands in the control of said metropolitan water board are situated, for the care and control, with or without police protection, of such lands, rights, easements, or interest in lands, for such period and upon such terms and conditions as may be mutually agreed.

SECT. 2. This act shall take effect upon its passage.

[Approved March 12, 1898.]

1898. — CHAPTER 293.

AN ACT RELATIVE TO THE PURCHASE AND SALE OF THE PROPERTY OF THE MARBLEHEAD WATER COMPANY.

Be it enacted, etc., as follows :

Marblehead Water Company may sell its water rights, etc.

SECTION 1. The Marblehead Water Company, a corporation established by chapter one hundred sixty-three of the acts of the year eighteen hundred and eighty-three, may sell all its water rights, estates, franchises and privileges, or any part thereof, to any person, or municipal or other corporation, notwithstanding the provisions of section nine of said act; and the town of Swampscott is hereby authorized to purchase the same or any part thereof upon terms agreed or to be agreed upon by the parties, and upon such purchase said town shall become entitled to all the rights and privileges of said corpora-

Town of Swampscott may purchase upon certain terms, etc.

¹ Accepted August 12, 1897.

tion, except as otherwise provided by agreement of the parties. Any vote heretofore passed by a majority of the legal voters of the town of Swampscott present and voting thereon at a legal town meeting to purchase said property, rights, privileges and franchises of the Marblehead Water Company as herein provided, or authorizing the selectmen to purchase the same, is hereby ratified as a vote of purchase thereof, and shall have the same effect as a vote of purchase thereof as though the authority hereby given had been granted prior to such vote.¹

SECT. 2. Said town of Swampscott upon acquiring the property of said Marblehead Water Company, as herein provided, may supply itself and its inhabitants with water for the extinguishment of fires and for domestic and other purposes, obtaining the same from any or all of the sources specified, and in the manner specified in said chapter one hundred sixty-three of the acts of the year eighteen hundred eighty-three; or from the city of Lynn, or from the metropolitan water board, as now authorized by law.²

May supply
itself with
water, etc.

SECT. 13. This act shall take effect upon its passage.

[*Approved April 6, 1898.*]

1898. — CHAPTER 295.

AN ACT TO PROVIDE FOR A WATER SUPPLY FOR THE TOWN OF WINTHROP.

Be it enacted, etc., as follows:

SECTION 1. S. The town of Winthrop may supply itself and its inhabitants with water for the extinguishment of fires and for domestic and other purposes, obtaining the same from the metropolitan water board, as provided in chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five, may establish fountains and hydrants and relocate or discontinue the same, and may regulate the use of such water and fix and collect rates to be paid for the use of the same.

Town of Winthrop may supply itself with water, etc.

Superseded by St. 1905, c. 477.

SECT. 2. Said town for the purposes aforesaid may hold and convey through said town the water to be furnished by said metropolitan water board as hereinbefore provided, and may also take and hold, by purchase or otherwise, all lands, rights of way and easements necessary for holding, storing, purifying and preserving such water and for conveying the same to any part of said town of Winthrop; may erect on the lands thus taken or held proper dams, reservoirs, buildings, fixtures or other structures; may make excavations, procure and operate machinery, and provide such other means and appliances as may be necessary for the establishment and maintenance of complete and effective water works; may construct

May hold and convey certain water, take certain lands, etc.

¹ Town voted to purchase March, 1898.

² Town is supplied by the Metropolitan Water Board.

and lay down conduits, pipes and other works, under and over any lands, water courses, railroads or public or private ways, and along any such ways in such manner as not unnecessarily to obstruct the same; and for the purpose of constructing, maintaining and repairing such conduits, pipes or other works, and for all proper purposes of this act, said town may dig up any such lands, and may enter upon and dig up any such ways in such manner as to cause the least hindrance to public travel thereon. The title to all lands taken or purchased under the provisions of this act shall vest in said town, and the land so taken may be managed, improved and controlled by the board of water commissioners hereinafter provided for, in such manner as they shall deem for the best interests of said town.

Town of Winthrop may purchase property of Revere Water Company, etc.

SECT. 13. The town of Winthrop shall not proceed to supply itself and its inhabitants with water under the authority of this act until it shall have first purchased the property of the Revere Water Company, situated within the limits of said town of Winthrop, and all the rights and privileges annexed thereto and necessary to the effectual enjoyment and use thereof, and also any rights and privileges that it may have acquired under chapter one hundred and forty-two of the acts of the year eighteen hundred and eighty-two and chapter two hundred and fifty-nine of the acts of the year eighteen hundred and eighty-four, or under any other act relating to the said company and the town of Winthrop, and said company is authorized to make the sale of said property, rights and privileges to said town, and said town is authorized to purchase the same and manage and use the property thus conveyed for the purposes and under the provisions of this act. Whenever within three years from the passage of this act said town shall by a majority vote of the legal voters of said town present and voting thereon at a legal meeting called for that purpose, or at any annual town meeting, vote to purchase said property, rights and privileges, the same shall thereupon become the property of said town, and said town shall pay to said company the fair value thereof, to be ascertained as hereinafter provided. In case said town and said company after a conference thereon shall be unable to agree upon the value of said property, rights and privileges, the supreme judicial court shall, upon application of either party and notice to the other, appoint three commissioners, of whom one shall be learned in the law and another shall be a skilled engineer, who shall determine the fair value of the property, rights and privileges, and whose award when accepted by the court shall be final; but said company shall not be entitled to receive any payment as hereinbefore provided, so long as any lien or any other incumbrance remains upon said property or any part thereof, unless said commissioners shall otherwise determine.

Commissioners to be appointed to determine value of property in cases of failure to agree, etc.

Question of acceptance to be submitted to voters.

SECT. 14. This act, except as provided in section fifteen, shall take effect upon its acceptance by a majority vote of the voters of the town of Winthrop present and voting thereon at

a legal meeting called for the purpose within three years from its passage; but the number of meetings so called shall not exceed three in any one year.¹

SECT. 15. So much of this act as authorizes the submission of the question of its acceptance to the legal voters of said town shall take effect upon its passage, but it shall not take further effect unless and until accepted as hereinbefore provided by the qualified voters of said town.

When to take effect.

[Approved April 6, 1898.]

1898.—CHAPTER 392.

AN ACT RELATIVE TO SUPPLYING CERTAIN CITIES AND TOWNS WITH WATER FROM THE METROPOLITAN WATER WORKS.

Be it enacted etc., as follows:

Section three of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five is hereby amended by inserting after the word "determine", in the twenty-eighth line, the words:—*provided*, that any such city or town shall first have acquired the works of any water company therein situated, constructed for the purpose of supplying said city or town or its inhabitants with water,—so as to read as follows:—*Section 3.* Said board, acting for the commonwealth, shall construct, maintain and operate a system of metropolitan water works substantially in accordance with the plans and recommendations of the state board of health, contained in their report to the legislature of the year eighteen hundred and ninety-five, and shall provide thereby a sufficient supply of pure water for the following named cities and towns, and the inhabitants thereof, to wit:—The cities of Boston, Chelsea, Everett, Malden, Medford, Newton and Somerville, and the towns of Belmont, Hyde Park, Melrose, Revere, Watertown and Winthrop, which cities and towns shall constitute the Metropolitan Water District; shall secure and protect the purity of said water; shall on application furnish water to any city or town aforesaid that at the time of application owns its water pipe system; shall on application admit any other city or town, any part of which is within ten miles of the state house, into said water district, and furnish water to the same on the terms prescribed by this act for the cities and towns aforesaid, and on such payment of money as said board may determine; shall on application furnish water to any water company owning the water pipe system in any town within said ten miles, on such water company assuming the assessments of the town, if any, and making such payment of money as said board may determine; and may from time to time furnish water to any other city, town or water company, on such payment of money as

Amendment to St. 1896, c. 489, § 3.

Construction of system of metropolitan water works. 192 Mass. 455, 465.

¹ Accepted June 29, 1898.

said board may determine : *provided*, that any such city or town shall first have acquired the works of any water company therein situated, constructed for the purpose of supplying said city or town or its inhabitants with water. All payments of money aforesaid shall be distributed to the cities and towns in said district in proportion to the total amount of the annual assessments theretofore paid by them respectively. Said board shall furnish said water to the city, town or company, by delivering the same into a main water pipe, reservoir or tank of the city, town or company, under sufficient pressure for use without local pumping, unless delivered in some other manner by mutual agreement between the parties interested; and shall have the direction and control of the connections between the metropolitan and local systems. Said board may utilize the fall of water at any dam under their charge, and may thereby produce power or electricity, and may transmit such power or electricity by pipes, wires, or other suitable means, and sell the same, or the right to use such water, by written or other contract, to run for a term not exceeding fifteen years. Any person or corporation authorized by said board shall have all the powers relating to the production, sale and transmission of power and electricity given by this act to said board.

[*Approved April 29, 1898.*]

1898. — CHAPTER 427.

AN ACT RELATIVE TO THE METROPOLITAN WATER SUPPLY.

Be it enacted, etc., as follows :

Disposition of
annual income
from water
works of city
of Boston.
1895, 488, § 21.

SECTION 1. The income received each year by the city of Boston from its water works shall be applied prior to the first day of February of the following year, to meet the expenses incurred for maintenance of its water works, including the operation, extension, improvement and renewal of said works, to meet the interest and sinking fund requirements of the loans issued for said works, and to meet the assessment apportioned to said city under chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five; and the balance of said income remaining at said date and not otherwise provided for shall be paid into the sinking funds for said loans until such time as in the opinion of the commissioners of sinking funds of said city such funds with their probable accumulations are sufficient to meet said loans at maturity without further contributions from any other source, and thereafter shall be added to the capital of the fund provided for in the following section.

Certain
sums to be
paid to com-
missioners of
sinking funds,
etc.

SECT. 2. All sums received since February first, eighteen hundred and ninety-eight, or that may hereafter be received by said city for the taking of any part of its water works under the provisions of said chapter, shall be paid to said commissioners

of sinking funds; and such sums, together with any payments that may be made of the income from the city's water works, as provided in section one of this act, shall, until otherwise authorized by the legislature, be invested, so far as practicable, in securities issued from time to time by said city, and the balance in other securities, and be held and managed by said sinking funds commissioners as a separate fund, and the interest received from said fund shall so far as required be paid to the treasurer of said city and used to meet the balance, if any, required for the purposes to which the income from the water works of said city may be applied under section one of this act; and if in any year the total income from said fund shall exceed the amount required to be so used the excess shall be added to the capital of said fund.

SECT. 3. R. Said city shall not issue any notes, bonds or scrip for water purposes without further authority from the legislature.

Issue of notes etc., restricted.

Repealed by St. 1903, c. 191, § 3.

SECT. 4. This act shall take effect upon its acceptance by the city council of the city of Boston.¹

[Approved May 13, 1898.]

1898. — CHAPTER 464.

AN ACT TO AUTHORIZE THE METROPOLITAN WATER BOARD TO CONVEY AND EXCHANGE LAND AND EASEMENTS.

Be it enacted, etc., as follows:

SECTION 1. In any case in which the metropolitan water board is now authorized by law to sell real estate, instead of making such sale said board may convey real estate and receive therefor in exchange other real estate, the title of the same to be taken in the name of the commonwealth, and may cause money to be paid or received to make the exchange equal. And said board may from time to time make grants or conveyances of easements and receive therefor in exchange other easements, money or such other considerations as may be deemed suitable by said board, the title of such easements to be taken in the name of the commonwealth. All money received shall be paid into the treasury of the commonwealth and be applied in the manner designated in section eighteen of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five for the disposition of the proceeds from the sale of real property.

Metropolitan water board may convey and exchange land and easements, etc.

SECT. 2. This act shall take effect upon its passage.

[Approved May 24, 1898.]

¹ Accepted January 4, 1902.

1898. — CHAPTER 551.

AN ACT TO PROVIDE FOR THE PAYMENT OF DAMAGES SUSTAINED
UNDER THE METROPOLITAN WATER SUPPLY ACT BY CERTAIN
PERSONS IN THE TOWN OF BOYLSTON.

Be it enacted, etc., as follows :

Amendment to
St. 1896, c. 488,
§ 14.

SECTION 1. Section fourteen of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five is hereby amended by inserting after the words "West Boylston", in the fifty-third line, the words: — or on land in the town of Boylston, — so that all of said section after the word "court", in the fiftieth line shall read as follows: — In case any individual or firm owning on the first day of April in the year eighteen hundred and ninety-five an established business on land in the town of West Boylston, or on land in the town of Boylston, whether the same shall be taken or not under this act, or the heirs or personal representatives of such individual or firm, shall deem that such business is decreased in value by the carrying out of this act, whether by loss of custom or otherwise, and unable to agree with said board as to the amount of damages to be paid for such injury, such damages shall be determined and paid in the manner hereinbefore provided. The words "real estate", as used in this section, shall include water rights, and in the case of mills all machinery thereon.

Payment of
damages to
certain per-
sons in Boyl-
ston.

SECT. 2. This act shall take effect upon its passage.

[Approved June 21, 1898.]

1898. — CHAPTER 557.

AN ACT TO AUTHORIZE THE METROPOLITAN WATER BOARD TO
TAKE LANDS IN THE TOWNS OF CLINTON AND LANCASTER AND
TO ERECT AND MAINTAIN THEREON A PLANT FOR THE DIS-
POSAL OF SEWAGE OF THE TOWN OF CLINTON.

Be it enacted, etc., as follows :

Metropolitan
water board
may take cer-
tain lands.
1896, 488, § 3.

SECTION 1. The metropolitan water board, in consultation with the town of Clinton, shall construct, maintain and operate suitable and sufficient works for intercepting the sewage of said town at or near the two existing outlets into the south branch of the Nashua river, one of them located near Allen street and the other about eighteen hundred feet above the bridge of the New York, New Haven and Hartford railroad crossing said river, and for conveying, storing, pumping and disposing of the said sewage. Said board may from time to time enlarge, modify and improve any works so constructed, and may, as occasion requires, take by purchase or otherwise, in fee or otherwise, as said board may determine, any lands, water rights, rights of

way and easements in the towns of Lancaster and Clinton, or either of them, that the board may deem necessary or desirable for discharging the powers and duties imposed by this act: *provided, however*, that any such land, water rights, rights of way and easements taken in the town of Lancaster shall be located between the town of Clinton on the south, the south branch of the Nashua river on the west, the roads leading from South Lancaster to Lancaster Commons and from Lancaster Commons to Bolton on the north, and the road leading from said last named road to Bolton Station on the east, and said boards shall take all lands, which on the first day of June in the year eighteen hundred and ninety-eight abutted upon and were within three hundred feet westerly from the westerly side of High street, so-called, between Mill street and a small brook crossing said High street about thirty-two hundred and fifty feet northerly from said Mill street, which the owner of such abutting land shall in writing notify said board before the first day of January in the year eighteen hundred and ninety-nine, that he desires to have taken; and *provided, further*, that no sewage shall be treated or purified upon any land in Lancaster west of or within two hundred feet east of said High street, unless the selectmen of the town of Lancaster shall in writing consent thereto; and the commonwealth, until said works herein provided for shall have been, as in this act provided, transferred to the town of Clinton, and thereafter, said town of Clinton, shall pay annually to the town of Lancaster for all lands held in said town of Lancaster, a sum of money to be fixed and determined according to the provisions of chapter three hundred and fifty-two of the acts of the year eighteen hundred and ninety-three.

SECT. 2. The metropolitan water board, in order to take any property hereunder by right of eminent domain, shall proceed in all respects as provided in chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five, and the provisions of said act shall apply to the determination, assessment and collection of damages on account of such taking, and the owners of lands or other property taken by virtue hereof shall have all the rights and remedies and be subject to all the duties prescribed in said act.

Procedure in taking by eminent domain.

SECT. 3. The metropolitan water board shall maintain and operate the works constructed by it, unless otherwise agreed by said board and the town of Clinton, until the sewage of said town shall have outgrown the normal capacity of the south branch of the Nashua river to properly dispose thereof; and then said board shall transfer to said town all the works, lands, water rights, rights of way, easements and other property constructed and acquired under the provisions hereof, upon such terms as may be agreed upon by said board and said town, and thereafter said works, lands, water rights, rights of way, easements and other property shall be owned, maintained and operated by the town of Clinton under the supervision and control of the

Works to be maintained and operated by the metropolitan water board.

state board of health, and said town shall pay to the commonwealth for the property so transferred such sum or sums, if any, as may be agreed by said town and said board to be just and proper. All sums paid as aforesaid shall be applied to the payment of the expenses of construction of the metropolitan water works and the payment of damages incurred in connection therewith, and any part of such sums not required for these purposes shall be applied to the payment of the interest, sinking fund requirements, and expenses of maintenance and operation of said water works. The supreme judicial court and the superior court, sitting in equity, shall in case of any refusal on the part of the town of Clinton to obey any order or decree made by said board of health in the exercise of the supervisory powers hereby conferred, enforce obedience to such order or decree by any appropriate process.

Submission of any matter in controversy to the supreme judicial court.

SECT. 4. If the metropolitan water board and the town of Clinton shall be unable to agree upon the proper time when or the terms under which the transfer of the works herein provided to be constructed should be made, as aforesaid, or what proper and just sum should be paid therefor, as aforesaid, either party may apply to the supreme judicial court for a determination of any matter in controversy, in the manner provided in sections fourteen and fifteen of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five: *provided, however*, that said town shall not, until two years after the transfer of the works, as aforesaid, lose, by operation of the statute of limitations, any right of recovery under the provisions of said act for damages sustained by any interference with its sewerage system or with its drainage rights or privileges; and if it so elect shall have the right to set off such damages against any claim for damages made for the transfer of said works, as aforesaid.

Sewers, drains, etc., may be laid under and along any street, etc.

SECT. 5. The metropolitan water board may, for the purposes of this act, carry the sewers, drains, pipes and conduits laid or constructed, as aforesaid, under and along any street, railroad or highway in such manner as not unnecessarily to obstruct the same, and may do any other act or thing proper for said purposes.

Works to be deemed a part of the metropolitan water works.

SECT. 6. The works constructed hereunder shall, while they remain under the control of the metropolitan water board, be deemed a part of the metropolitan water works, and all of the provisions of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five relating to the incurring of expense for construction, maintenance and operation, to the payment of the costs thereof, to the sale and leasing of property, and to the disposal of the proceeds from the sales of property and from other operations of said board, and all other provisions of said act so far as they are applicable and not inconsistent herewith shall apply to the works constructed hereunder.

SECT. 7. The metropolitan water board shall save harmless the towns of Lancaster and Clinton from all damages for injuries resulting from any defect or want of repair in any road, street or highway, caused by digging up the same or by constructing, laying, maintaining or repairing any works to be constructed hereunder.

Towns of Clinton and Lancaster to be exempt from damages.

SECT. 8. No sewers or other works shall be constructed and maintained under the authority of this act until the plans have been approved by the state board of health.

Plans to be approved by the state board of health.

SECT. 9. This act shall take effect upon its passage.

[Approved June 22, 1898.]

1899. — CHAPTER 195.

AN ACT TO AUTHORIZE THE CITY OF SOMERVILLE TO LAY OUT AND MAINTAIN A PARKWAY.

Be it enacted, etc., as follows:

SECTION 1. The city of Somerville by its city council may at any time within three years after the passage of this act take from time to time in fee or otherwise, any lands and rights in lands within the limits of said city, upon such terms and conditions as said city council may deem advisable, by gift or purchase, or by right of eminent domain or otherwise, and hold the same in fee or otherwise, and maintain them for the purpose of a parkway or boulevard. Said parkway or boulevard may extend from Nathan Tuft's park, at the junction of Broadway and Elm streets in Somerville, by such route and courses and of such width and to such part of the boundary line of said city on Mystic river or Alewife brook as said city council may determine.

City of Somerville may take lands, etc., for a parkway.

SECT. 3. Said city council may make agreements with the metropolitan park commission, the metropolitan water board, the board of metropolitan sewerage commissioners, the city of Boston, or with any officer or board of said city of Boston having the care or control of any lands, rights, easements or interests in lands within the limits of said parkway, for the care and control, including police protection, and disposition of said lands, rights, easements and interests in lands, for such period and upon such terms and conditions as the parties to such agreements may deem expedient. Said city council may from time to time make agreements with the metropolitan park commission for the care and control, including police protection, of the whole or any part of said parkway. Conveyance of said parkway, lands, rights, easements and interests in lands may be made in accordance with any agreements made as authorized by this section.

Care and control of parkway, etc.

1899. — CHAPTER 306.

AN ACT RELATIVE TO CERTAIN SUITS FOR DAMAGES FOR PROPERTY TAKEN BY THE METROPOLITAN WATER BOARD.

Be it enacted, etc., as follows :

Petitions for damages for property taken by the metropolitan water board.

SECTION 1. In any case where the lands, ponds, reservoirs, water sources, aqueducts or other property of any city or town, taken or used by the commonwealth under authority of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five, are situated in more than one county, all petitions for damages authorized by said act which are now pending, or which may hereafter be brought, including petitions for damages caused by cancellation of the contracts mentioned in section seven of said statute, shall be consolidated and entered as one petition in the office of the clerk of the superior court for the county of Norfolk, and the superior court for said county shall have exclusive jurisdiction thereof.

Commissioners to determine damages, appointment, duties, etc.

SECT. 2. In all such cases the court, upon application of either party, shall appoint three commissioners, who shall hear the parties and their evidence and make report of their findings to the court, and the findings of fact in such report shall be prima facie evidence thereof in any jury trial claimed as provided by statute. Said commissioner shall, at the request of either party, report their rulings upon all matters of law arising upon the hearing before them. Upon the return of the report the court may, at the request of either party, report for the determination of the supreme judicial court such questions of law presented by the report of the commissioners as either party may designate; and thereupon, in case the rulings of the commissioners on such questions of law shall be rejected or modified by the supreme judicial court, the case shall be remanded to the commissioners, who shall, after hearing the arguments of the parties, file a final report determining and awarding damages sustained by the city or town, as aforesaid, in conformity with the opinion of the supreme judicial court upon such questions of law. If either party shall be dissatisfied with the amount of damages thus awarded by the commissioners such party may, within thirty days after the return of the final report of the commissioners, file a notice in writing claiming a jury trial; and thereupon the damages sustained by the city or town shall be determined by a jury in the superior court for said county. The expense of said hearings for stenography, printing and compensation of the commissioners shall be paid equally by the parties to the proceeding.

Determination of damages by a jury.

SECT. 3. This act shall take effect upon its passage.

[Approved April 27, 1899.]

1899.—CHAPTER 308.

AN ACT RELATIVE TO ORDERS, RULES AND REGULATIONS MADE BY THE STATE BOARD OF HEALTH OR BY THE METROPOLITAN WATER BOARD.

Be it enacted, etc., as follows :

SECTION 1. The publication of any order, rule or regulation made by the state board of health, under authority of chapter five hundred and ten of the acts of the year eighteen hundred and ninety-seven, for the purpose of preventing the pollution and securing the sanitary protection of the waters and tributaries named therein used as sources of water supply, or the publication of any order, rule or regulation made either by the metropolitan water board or by the state board of health for the sanitary protection of the waters used by the metropolitan water board for the water supply of any city, town or water company, under the provisions of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five, in a newspaper of the city or town in which such order, rule or regulation is to take effect, shall be deemed legal notice to all persons. If no newspaper is published in the city or town in which any such order, rule or regulation is to take effect, the posting of a copy thereof in some public place in said city or town shall be deemed legal notice to all persons.

Publication of certain orders, rules, etc., to be deemed legal notice.

SECT. 2. The affidavit of a person causing a notice to be so published or posted, being filed and recorded, with a copy of the notice, in the office of the clerk of any city or town in which any such order, rule or regulation is to take effect, shall be deemed evidence of the time, place and manner in which the notice was given.

Evidence of notice.

SECT. 3. This act shall take effect upon its passage.

[Approved April 27, 1899.]

1899.—CHAPTER 342.

AN ACT TO EXTEND THE TIME WITHIN WHICH PETITIONS MAY BE FILED FOR DAMAGES SUSTAINED BY THE TAKING OF REAL ESTATE FOR THE METROPOLITAN WATER WORKS.

Be it enacted, etc., as follows :

SECTION 1. S. Petitions under the provisions of section fourteen of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five, or of section one of chapter four hundred and forty-five of the acts of the year eighteen hundred and ninety-seven, and acts in amendment thereof or in addition thereto, for the determination of damages for the taking of real estate may be filed, as provided by law, within two years after the actual taking by right of eminent

Limit of time for filing petitions.

Amended by Sts. 1900, c. 108; 1901, c. 498; 1904, c. 186. 192 Mass. 570, 572.

domain of such real estate or of any interest therein, and petitions for the determination of all other damage provided for in said acts may be filed on or before the first day of July in the year nineteen hundred and one.

SECT. 2. This act shall take effect upon its passage.

[Approved May 6, 1899.]

1899.—CHAPTER 349.

AN ACT RELATIVE TO SUPPLYING CERTAIN CITIES AND TOWNS WITH WATER FROM THE METROPOLITAN WATER SYSTEM.

Be it enacted, etc., as follows:

Amendment to
St. 1896, c. 488,
§ 3.

SECTION 1. Section three of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five, as amended by chapter three hundred and ninety-two of the acts of the year eighteen hundred and ninety-eight, is hereby amended by inserting after "town", in the thirtieth line, the words:—last referred to,—so as to read as follows:—

Construction
of a system of
metropolitan
water works.
192 Mass. 455,
465.

Section 3. Said board, acting for the commonwealth, shall construct, maintain and operate a system of metropolitan water works substantially in accordance with the plans and recommendations of the state board of health, contained in their report to the legislature of the year eighteen hundred and ninety-five, and shall provide thereby a sufficient supply of pure water for the following named cities and towns, and the inhabitants thereof, to wit:—The cities of Boston, Chelsea, Everett, Malden, Medford, Newton and Somerville, and the towns of Belmont, Hyde Park, Melrose, Revere, Watertown and Winthrop, which cities and towns shall constitute the Metropolitan Water District; shall secure and protect the purity of said water; shall on application furnish water to any city or town aforesaid that at the time of application owns its water pipe system; shall on application admit any other city or town, any part of which is within ten miles of the state house, into said water district, and furnish water to the same on the terms prescribed by this act for the cities and towns aforesaid, and on such payment of money as said board may determine; shall on application furnish water to any water company owning the water pipe system in any town within said ten miles, on such water company assuming the assessments of the town, if any, and making such payment of money as said board may determine; and may from time to time furnish water to any other city, town or water company, on such payment of money as said board may determine: *provided*, that any such city or town last referred to shall first have acquired the works of any water company therein situated, constructed for the purpose of supplying said city or town or its inhabitants with water. All payments of money aforesaid shall be distributed to the cities and towns in said district in proportion to the total amount of the annual

assessments theretofore paid by them respectively. Said board shall furnish said water to the city, town or company, by delivering the same into a main water pipe, reservoir or tank of the city, town or company, under sufficient pressure for use without local pumping, unless delivered in some other manner by mutual agreement between the parties interested; and shall have the direction and control of the connections between the metropolitan and local systems. Said board may utilize the fall of water at any dam under their charge, and may thereby produce power or electricity, and may transmit such power or electricity by pipes, wires, or other suitable means, and sell the same, or the right to use such water, by written or other contract, to run for a term not exceeding fifteen years. Any person or corporation authorized by said board shall have all the powers relating to the production, sale and transmission of power and electricity given by this act to said board.

SECT. 2. This act shall take effect upon its passage.

[Approved May 9, 1899.]

1899. — CHAPTER 480.

AN ACT RELATIVE TO DAMAGES OCCASIONED BY THE CONSTRUCTION OF BASINS OR RESERVOIRS FOR WATER SUPPLY IN THE TOWN OF ASHLAND.

Be it enacted, etc., as follows:

SECTION 1. The treasurer of the commonwealth shall pay as a part of the expenses of the metropolitan water works, to the town of Ashland so long as said town remains a municipality, the sum of twenty-two hundred dollars in the month of September in the year eighteen hundred and ninety-nine, and the like sum in the same month in each succeeding year until ten years after the reservoirs or basins situated in said town of Ashland cease to be a part of the metropolitan water system; but shall pay no tax and make no other payment to said town on account of any property held by said water board for the purpose of a water supply.

Payments to
town of Ash-
land.

SECT. 2. This act shall take effect upon its passage.

[Approved June 3, 1899.]

1900. — CHAPTER 108.

AN ACT TO EXTEND THE TIME FOR FILING PETITIONS FOR DAMAGES AND OFFERS OF SURRENDER OF REAL ESTATE, UNDER THE ACT TO PROVIDE FOR A METROPOLITAN WATER SUPPLY.

Be it enacted, etc., as follows:

SECTION 1. Section one of chapter three hundred and forty-two of the acts of the year eighteen hundred and ninety-nine is hereby amended by inserting after the word "determination",

Amendment to
St. 1899, c. 342,
§ 1.

Limit of time
for filing peti-
tions.
Amended by
Sts. 1901, c. 496;
1904, c. 186.
192 Mass. 570,
572.

in the tenth and eleventh lines, the words:—of damages for the taking of water rights where no land is taken in connection with such water rights, and for the determination,—and by inserting after the word “acts”, in the eleventh line, the words:—and offers of surrender of real estate provided for in said acts,—so as to read as follows:—*Section 1.* Petitions under the provisions of section fourteen of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five, or of section one of chapter four hundred and forty-five of the acts of the year eighteen hundred and ninety-seven, and acts in amendment thereof or in addition thereto, for the determination of damages for the taking of real estate may be filed, as provided by law, within two years after the actual taking by right of eminent domain of such real estate or of any interest therein, and petitions for the determination of damages for the taking of water rights where no land is taken in connection with such water rights, and for the determination of all other damage provided for in said acts, and offers of surrender of real estate provided for in said acts, may be filed on or before the first day of July in the year nineteen hundred and one.

Effect of act.

SECT. 2. This act shall not affect the provisions of chapter five hundred and fifty-seven of the acts of the year eighteen hundred and ninety-eight, and shall not extend the time for filing petitions for damages for the taking of land with which no water rights are connected, or for the taking of land with which water rights are connected when both such land and the water rights connected therewith are taken.

SECT. 3. This act shall take effect upon its passage.

[Approved February 23, 1900.]

1900. — CHAPTER 375.

AN ACT RELATIVE TO THE CONSTRUCTION OF THE METROPOLITAN WATER WORKS.

Be it enacted, etc., as follows:

Construction,
etc., of certain
aqueduct, etc.

SECTION 1. Chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five and acts in amendment thereof or in addition thereto shall be held to include the construction, maintenance and operation of an aqueduct from the so-called Sudbury reservoir in Southborough to a point in the town of Weston, of a reservoir near the end of such aqueduct, and of pipes for connecting such aqueduct or reservoir with distributing pipes, reservoirs and other works under the control of the metropolitan water board, substantially in accordance with the plans and recommendations of the state board of health contained in their report to the general court of the year eighteen hundred and ninety-five.

SECT. 2. This act shall take effect upon its passage.

[Approved June 8, 1900.]

1901. — CHAPTER 168.

AN ACT TO CONSOLIDATE THE METROPOLITAN WATER BOARD AND
THE BOARD OF METROPOLITAN SEWERAGE COMMISSIONERS.*Be it enacted, etc., as follows :*

SECTION 1. A board is hereby created which shall be known as the Metropolitan Water and Sewerage Board, and shall consist of three members, who shall be appointed by the governor with the advice and consent of the council.

Metropolitan
Water and
Sewerage
Board created.
1896, 488, §§ 1, 2.

SECT. 2. The term of office of the members of said board shall be three years, beginning from the date of their appointment, but of the members first appointed one shall be appointed for the term of five years, one for the term of four years and one for the term of three years from said date of appointment. The governor shall designate one of the members of said board as chairman, and shall also designate the term for which each member is appointed.

Term of office
of members,
etc.

Chairman, etc.

SECT. 3. The chairman of said board shall receive a salary of five thousand dollars a year, and each of the other members shall receive a salary of forty-five hundred dollars a year.

Compensation.

SECT. 4. The governor shall have power to remove any member of said board, with the advice and consent of the council, and to fill all vacancies therein, by appointing for the remainder of any unexpired term in the same manner in which appointments are authorized for a full term.

Removals, va-
cancies.

SECT. 5. The metropolitan water board and the board of metropolitan sewerage commissioners are hereby abolished. All the powers, rights, duties and liabilities of said metropolitan water board and of said board of metropolitan sewerage commissioners, and of each of them, are hereby transferred to the Metropolitan Water and Sewerage Board created by this act. No existing contracts, liabilities or suits shall be affected hereby, but the board hereby created shall in all respects and for all purposes whatsoever be the lawful successor of said metropolitan water board and of said board of metropolitan sewerage commissioners.

The metropol-
itan water
board and
board of met-
ropolitan sew-
erage commis-
sioners abol-
ished, etc.

Existing con-
tracts, etc., not
affected.

SECT. 6. This act shall take effect upon its passage.

[Approved March 20, 1901.]

1901. — CHAPTER 313.

AN ACT TO AUTHORIZE THE TEMPORARY TAKING OF WATER FOR
EMERGENCY PURPOSES BY CITIES AND TOWNS.*Be it enacted, etc., as follows :*

SECTION 1. Cities by their city councils, and towns having a system of water supply by their water commissioners or selectmen, may in cases of emergency and for a period not exceeding six months in any one year, take water from any brook, stream, river, lake, pond or reservoir, not already appro-

Cities and cer-
tain towns may
in cases of
emergency
take water
from certain
brooks, etc.
1896, 488, §§ 4,
23.

apropriated to uses of a municipal water supply, in such quantities as may be necessary to relieve the emergency; but water commissioners or selectmen of towns shall not make any such taking unless previously authorized so to do at some meeting of the inhabitants of the town regularly called therefor. They may also take such rights to use any land and for such time as may be necessary to use such water. Such vote of a city council or of a town meeting shall be conclusive as to the existence of the emergency. No such taking shall be made until the state board of health shall have first approved the water as a proper source of water supply.

Water to be approved by state board of health.

Description of taking to be recorded, etc.

SECT. 2. The city councils of cities and the water commissioners or selectmen of towns shall cause to be recorded in the registry of deeds for the county or district in which such water and land are situated, within thirty days after the taking, a description sufficiently accurate for identification, with a statement of the purpose and the time for which the same are taken, which statement shall be signed by the mayor of the city or by the chairman of the water commissioners or selectmen of the town making the taking, and upon such recording the right to use for the time stated in such taking shall vest in such city or town.

Damages.

SECT. 3. The city councils of cities and the water commissioners or selectmen of towns shall within sixty days after the termination of the exercise of any right taken under the provisions of this act estimate and determine, as near as may be, the actual damages sustained by any person by the taking of any water and of the right to use any land under this act; but any one aggrieved by such determination may have such damages assessed by a jury of the superior court, in the same manner as is provided by law with respect to damages sustained by the laying out of ways. If upon trial damages are increased beyond the amount determined as aforesaid, the aggrieved person shall recover costs, otherwise such person shall pay costs, and costs shall be taxed as in civil cases; but no suit or petition for such damages shall be brought after the expiration of two years from the date of the recording of the description and statement as aforesaid.

Certain duties, etc., to be exercised by metropolitan water and sewerage board.

SECT. 4. The powers conferred upon and the duties to be performed by the city councils and mayors of cities under this act shall within those cities and towns using the metropolitan water supply be exercised by the metropolitan water and sewerage board.

[Approved April 23, 1901.]

1901. — CHAPTER 442.

AN ACT RELATIVE TO BONDS REQUIRED TO BE GIVEN UNDER CERTAIN CONTRACTS MADE BY THE METROPOLITAN WATER AND SEWERAGE BOARD.

Be it enacted, etc., as follows :

Chapter three hundred and thirty-nine of the acts of the year eighteen hundred and ninety-seven is hereby amended by inserting at the end thereof the following: — Nothing herein contained shall be construed to deprive any city or town of any rights or remedies under laws existing at the time of the passage of this act.

Amendment to
St. 1897, c. 339.

[Approved May 29, 1901.]

1901. — CHAPTER 453.

AN ACT TO PROVIDE FOR AN ADDITIONAL METROPOLITAN WATER LOAN.

Be it enacted, etc., as follows :

SECTION 1. The treasurer and receiver general of the commonwealth shall from time to time, on the request of the metropolitan water and sewerage board, issue negotiable bonds in the name and behalf of the commonwealth and under its seal, designated on the face thereof, Metropolitan Water Loan, to an amount not exceeding thirteen million dollars, in addition to the twenty-seven million dollars authorized to be issued under the provisions of section seventeen of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five; and the provisions of said chapter and of acts in amendment thereof and in addition thereto shall apply to this additional loan, to the same extent as if the amount authorized by said act had been forty million dollars instead of twenty-seven million dollars.

Metropolitan
Water Loan.

SECT. 2. This act shall take effect upon its passage.

[Approved June 5, 1901.]

1901. — CHAPTER 489.

AN ACT TO CHANGE THE AMOUNT TO BE ASSESSED ANNUALLY UPON CITIES AND TOWNS UNDER THE ACT TO PROVIDE FOR A METROPOLITAN WATER SUPPLY.

Be it enacted, etc., as follows :

SECTION 1. Section nineteen of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five, being "An Act to provide for a Metropolitan Water Supply", is hereby amended by striking out all after the word

Amendment to
St. 1895, c. 488,
§ 19.

Treasurer to estimate amount required for payment of expenses, etc.

“treasurer”, in the thirty-second line, to and including the word “apportioned”, in the forty-fourth line, so as to read as follows: — *Section 19.* Said treasurer shall in each year estimate the amount, in addition to the premiums from sales of said bonds and the proceeds from the operations of said board, exclusive of the proceeds from sales of property, required during the year to pay the interest, sinking fund requirements, expenses of maintenance and operation of said water works, and shall apportion to the city of Boston the proportion of such amount that the valuation of said city for the preceding year bears to the total of all such valuations of all cities and towns in said water district: *provided, however,* there shall be included only one sixth of the total valuation of any such city and town which has not reached the safe capacity of its present sources of supply in a dry year, as determined by said water board and certified to said treasurer, and has not made application to said board for water, and the remainder to the other cities and towns in said district, one-third in proportion to their respective valuations and the remaining two thirds in proportion to their respective populations, including however only one-sixth of the total valuation and one sixth of the total population of any such city and town which has not reached the safe capacity of its sources or of the sources of supply of the water company by which a town is supplied, or has not made application for water as aforesaid; and *provided, further,* that any city or town assessed upon its full valuation and population, which furnishes a part of its water supply from its own works or receives a supply from a water company, shall be allowed and credited in its apportionment with a sum equal to twelve dollars for each million gallons of water furnished as aforesaid, as determined by said water board and certified to said treasurer. Said treasurer shall in each year notify each city and town of the amount of its assessment, and the same shall be paid by the city or town into the treasury of the commonwealth at the time required for the payment and as part of its state tax.

SECT. 2. This act shall take effect upon its passage.

[Approved June 13, 1901.]

1901. — CHAPTER 498.

AN ACT TO EXTEND THE TIME FOR FILING PETITIONS FOR DAMAGES, AND OFFERS OF SURRENDER OF REAL ESTATE, UNDER THE ACT TO PROVIDE FOR A METROPOLITAN WATER SUPPLY.

Be it enacted, etc., as follows:

Amendment to St. 1899, c. 342, § 1.
Limit of time for filing petitions.

SECTION 1. Section one of chapter three hundred and forty-two of the acts of the year eighteen hundred and ninety-nine, as amended by section one of chapter one hundred and eight of the acts of the year nineteen hundred, is hereby further

amended by striking out the word "one", in the seventeenth line, and inserting in place thereof the word:—four,—so as to read as follows:—*Section 1.* Petitions under the provisions of section fourteen of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five, or of section one of chapter four hundred and forty-five of the acts of the year eighteen hundred and ninety-seven, and acts in amendment thereof or in addition thereto, for the determination of damages for the taking of real estate may be filed, as provided by law, within two years after the actual taking by right of eminent domain of such real estate or of any interest therein, and petitions for the determination of damages for the taking of water rights where no land is taken in connection with such water rights, and for the determination of all other damage provided for in said acts, and offers of surrender of real estate provided for in said acts, may be filed on or before the first day of July in the year nineteen hundred and four.

189 Mass. 273.
192 Mass. 570,
572.

SECT. 2. This act shall take effect upon its passage.

[Approved June 13, 1901.]

1901.—CHAPTER 505.

AN ACT RELATIVE TO THE PAYMENT TO CERTAIN PERSONS IN THE TOWN OF CLINTON OF DAMAGES SUSTAINED UNDER THE ACT TO PROVIDE FOR A METROPOLITAN WATER SUPPLY.

Be it enacted, etc., as follows:

SECTION 1. Section fourteen of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five, as amended by chapter five hundred and fifty-one of the acts of the year eighteen hundred and ninety-eight, is hereby further amended by inserting after the word "Boylston", in the fifth and eleventh lines, respectively, of section one of said chapter five hundred and fifty-one, the words:—or in that part of the town of Clinton within the limits of the Wachusett reservoir,—so that said section fourteen of chapter four hundred and eighty-eight, after the word "court", in the fiftieth line, shall read as follows:—In case any individual or firm owning on the first day of April in the year eighteen hundred and ninety-five an established business on land in the town of West Boylston, or on land in the town of Boylston, or in that part of the town of Clinton within the limits of the Wachusett reservoir, whether the same shall be taken or not under this act, or the heirs or personal representatives of such individual or firm, shall deem that such business is decreased in value by the carrying out of this act, whether by loss of custom or otherwise, and unable to agree with said board as to the amount of damages to be paid for such injury, such damages shall be determined and paid in the manner hereinbefore provided. The words "real

Amendment to
St. 1895, c. 488,
§ 14.
184 Mass. 279,
282.

estate", as used in this section, shall include water rights, and in the case of mills all machinery thereon.

SECT. 2. This act shall take effect upon its passage.

[Approved June 14, 1901.]

1901. — CHAPTER 509.

AN ACT TO REQUIRE THE METROPOLITAN WATER AND SEWERAGE BOARD TO IMPROVE THE CONDITION OF THE COCHITUATE WATER BASIN.

Be it enacted, etc., as follows:

Conditions of
Cochituate
water basin to
be improved,
etc.

SECTION 1. The metropolitan water and sewerage board, within two years from the passage of this act, shall cause that part of the Cochituate reservoir known as Pegan meadow, located in the town of Natick, and that part of said reservoir in the towns of Wayland and Natick known as Snake Brook meadow, to be cleaned and excavated to a level of three feet above the bottom of the aqueduct from said reservoir, and the banks of the said meadows to be improved so that mud deposits shall not be exposed thereon at low stages of the water; and in the execution of this work the board may decrease the flowed area of the said meadows to such extent as it shall see fit. The cost of said work shall be paid out of the Metropolitan Water Loan Fund: *provided, however*, that the amount so expended shall not exceed one hundred thousand dollars; and if the board shall find it impossible to excavate said meadows to the depth herein specified and to carry out all the provisions hereof for said sum, then said work shall be prosecuted to such extent as may reasonably be done for the sum of one hundred thousand dollars.

Certain provi-
sions of law to
apply.

SECT. 2. The provisions of section twenty-eight of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five for the enforcement of the act to provide for a metropolitan water supply shall apply to this act.

SECT. 3. This act shall take effect upon its passage.

[Approved June 14, 1901.]

1901. — CHAPTER 513.

AN ACT TO AUTHORIZE THE ADVANCEMENT OF MONEYS FOR THE PURPOSES OF THE METROPOLITAN WATER AND SEWERAGE BOARD.

Be it enacted, etc., as follows:

Advances to
metropolitan
water and sew-
erage board.

SECTION 1. There may be advanced from the treasury of the commonwealth to such person as shall be designated by the metropolitan water and sewerage board such sums of money,

not exceeding twenty thousand dollars at any one time, as the auditor of accounts may certify to the treasurer of the commonwealth to be necessary to enable said board to make direct payments upon their pay rolls and other accounts. Said sum may be advanced from any loan or appropriation under the control of the metropolitan water and sewerage board. The person to whom this money is advanced shall within thirty days from the receipt of any sum file with the auditor of accounts a statement in detail of the moneys expended, approved by the metropolitan water and sewerage board, and, where it is practicable to obtain them, receipts or other like vouchers of the persons to whom the payments have been made. The person so designated shall give a bond with sufficient sureties, to be approved by the auditor of accounts, in the sum of twenty thousand dollars.

Amended by
St. 1904, c. 431.

SECT. 2. All acts and parts of acts inconsistent herewith are hereby repealed. Repeal.

SECT. 3. This act shall take effect upon its passage.

[Approved June 14, 1901.]

1901. — CHAPTER 516.

AN ACT TO PROVIDE FOR CERTAIN ANNUAL PAYMENTS TO THE TOWN OF HOPKINTON ON ACCOUNT OF THE CONSTRUCTION OF THE METROPOLITAN WATER SYSTEM.

Be it enacted, etc., as follows :

SECTION 1. The treasurer of the commonwealth shall pay to the town of Hopkinton as a part of the expenses of the metropolitan water works, the sum of twelve hundred dollars in the month of September in the year nineteen hundred and one, and a like sum in the same month in each succeeding year until ten years after the reservoirs or basins situated in said town cease to be a part of the metropolitan water system: *provided*, that the town shall continue to be a municipality during that time; but shall pay no tax and make no other payment to said town on account of any property held by said water board for the purposes of a water supply.

Payments to
the town of
Hopkinton.

SECT. 2. This act shall take effect upon its passage.

[Approved June 18, 1901.]

1902. — CHAPTER 189.

AN ACT TO AUTHORIZE THE METROPOLITAN WATER AND SEWERAGE BOARD TO FURNISH WATER TO COMPANIES OWNING WATER PIPE SYSTEMS IN SECTIONS OF CERTAIN CITIES AND TOWNS.

Be it enacted, etc., as follows :

SECTION 1. The metropolitan water and sewerage board may from time to time furnish water to any water company which owns the water pipe system in a section of a city or town, for

Supply of
water to cer-
tain companies
owning water
pipe systems.

the supply of such section, although the city or town, or a part of the city or town, is within ten miles of the state house, and the city or town has not been admitted into the metropolitan water district, on payment by the water company of such sum of money as the said board may determine: *provided, however*, that the sum so determined in any case shall in the opinion of the board exceed the proper proportion of the entire assessment which would be imposed upon the city or town were it a part of the metropolitan district.

SECT. 2. This act shall take effect upon its passage.

[Approved March 19, 1902.]

1902. — CHAPTER 307.

AN ACT TO SUPPLY THE TOWN OF MILTON WITH WATER.

Be it enacted, etc., as follows:

Town of Milton may supply itself with water.

SECTION 1. The town of Milton may supply itself and its inhabitants with water for the extinguishment of fires and for domestic, manufacturing and other purposes; and may establish fountains and hydrants and relocate or discontinue the same, and may regulate the use of such water and fix and collect rates to be paid for the use of the same.

May take certain lands, etc.

SECT. 2. Said town, for the purposes aforesaid, may take, by purchase or otherwise, all lands, rights of way and easements necessary for holding, storing, purifying and preserving the water used by the town under the provisions of this act, and for conveying the same to any part of said town; may erect on the lands thus taken or held, proper dams, reservoirs, buildings, fixtures and other structures, and may make excavations, procure and operate machinery, and provide such other means and appliances as may be necessary for the establishment and maintenance of complete and effective water works; may construct and lay conduits, pipes and other works, under or over any lands, water courses, railroads, railways, and public or private ways, and along any such way in such manner as not unnecessarily to obstruct the same; and for the purpose of constructing, maintaining and repairing such conduits, pipes and other works, and for all other purposes of this act, said town may dig up any such lands, and, under the direction of the selectmen of the town in which said ways are situated, may enter upon and dig up such ways in such manner as to cause the least hindrance to public travel. The title to all land taken or purchased under the provisions of this act shall vest in said town, and the land so taken may be managed, improved and controlled by the board of water commissioners hereinafter provided for, in such manner as they shall deem for the best interests of said town.

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SECT. 14. The metropolitan water and sewerage board shall on application admit the town of Milton into the metropolitan water district, and shall furnish water to the town on the terms prescribed by chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five and of acts in amendment thereof and in addition thereto, for the cities and towns included in the metropolitan water district, and on payment of such sum of money as said board may determine to be just.

Town of Milton may be admitted into the metropolitan water district. 1895, 488, § 3, 23.

SECT. 15. If within thirty days after this act has been accepted by the town of Milton, as hereinafter provided, the Milton Water Company shall notify the selectmen of the town of Milton in writing that it desires to sell to said town all its right, interest and easements in real estate, pipes, mains, hydrants, tools, equipments, supplies and all appliances owned by said company, and situated in the town of Milton, and used in supplying said town and the inhabitants thereof with water, and also any right of said company to use the water from the metropolitan water district, and shall file with the town clerk of said town a specification and description thereof, section fourteen of this act shall not take effect nor shall said town proceed to supply water to itself or its inhabitants under authority of this act, unless it shall have first purchased of said company the property aforesaid; and said company is authorized to make sale of said property to said town, and said town is authorized to purchase the same, and to manage and use the property thus conveyed for the purposes and under the provisions of this act. If within six months after the passage of this act said town shall by a majority vote of the legal voters of said town present and voting thereon at a legal meeting called for that purpose, or at any annual town meeting, vote to purchase said property,¹ and to issue bonds or notes for the purpose of paying therefor in whole or in part, notice of the desire of said company to sell the same having been given as hereinbefore provided, such bonds or notes may thereupon be issued by the treasurer of the town, and said property shall upon payment therefor become the property of the town, and it shall pay said company therefor as hereinafter provided, within two months after such vote to purchase. The provisions of section six respecting the bonds, notes or scrip which may be issued under authority thereof shall, as to designation, times of payment, rate of interest and the sale or pledge thereof, apply to the bonds or notes which may be issued under the authority of this section. The town in payment therefor shall assume the liability and obligation of said company upon the outstanding bonds heretofore issued by it, including interest, and shall indemnify and save harmless said company from all loss, cost and expense by reason thereof, and shall pay to said company the sum of one hundred and eighty-nine thousand dollars, with such additions or deductions as shall be determined upon the following plan and accounting, and with interest at the

Town of Milton may purchase property of Milton Water Company, etc.

¹ Town voted to purchase July 14, 1902.

rate of five per cent. per annum upon the sum thus found due from the first day of April in the current year to the day of payment by the town, namely:— Upon whatsoever day the town shall make payment for said property it shall take the same as of said first day of April. If between said first day of April and the day of payment by the town the expenses of said company, including interest on said bonds hereafter paid by it, if any, shall exceed its receipts for water rates due and payable on or after said first day of April, the difference shall be added to, and if such receipts are greater than its expenses, including interest on said bonds hereafter paid by it, if any, the excess shall be deducted from said sum. Upon payment by the town to said company as above provided said company shall assign to the town upon request of its selectmen all sums due it for unpaid water rates which may have accrued on or after said first day of April. If the town and said company shall be unable to agree upon the sum to be paid to said company by the town under the provisions of this act the same shall be determined by an assessor to be appointed by the superior court upon petition of either party, and the determination of such assessor in writing when approved by the court shall be final and binding on both parties.

Question of acceptance to be submitted to voters.

SECT. 16. This act shall be submitted to the qualified voters of the town of Milton for their acceptance and shall be void unless such voters, voting at a legal meeting called for that purpose in the same manner in which meetings for town elections are called, or at any annual town meeting, shall, within six months after the passage of this act, determine by ballot by a majority vote of those present and voting thereon to accept the same.¹ The warrant for notifying such meeting, if called specially as aforesaid, shall specify when the polls shall be opened for the purpose of voting and when they shall be closed.

Acceptance of act.

SECT. 17. So much of this act as authorizes the submission of the question of its acceptance to the qualified voters of said town shall take effect upon its passage, but it shall not take further effect until accepted as hereinbefore provided by the qualified voters of said town; and the number of meetings called for the purpose of voting upon the question of its acceptance shall not exceed three.

[Approved April 17, 1902.]

1902. — CHAPTER 351.

AN ACT TO AUTHORIZE THE CITY OF WORCESTER TO INCREASE ITS WATER SUPPLY.

Be it enacted, etc., as follows:

City of Worcester may take certain waters, lands, etc.

SECTION 1. The city of Worcester is hereby authorized, for the purpose of increasing its water supply, to take by purchase or otherwise, from time to time, and to hold and convey into

¹ Accepted July 14, 1902.

and through said city the waters of Kendall brook, so-called, at or near the dam of Kendall reservoir, and the waters of Asnebumskit brook, so-called, at or near an elevation of eight hundred feet above mean sea level at Boston, and the waters upon the watershed between said two brooks at or near an elevation of eight hundred feet above mean sea level at Boston, all of said places of taking being in the town of Holden, and also the water in any reservoir thereon and the waters flowing into and from the same, and all springs and tributaries thereto, and the water rights connected with said sources above said places of taking; and the said city may take existing reservoirs and ponds upon said streams above the points at which it may take the said waters; and may by aqueduct bring the waters so taken directly into the city or through any reservoir and any aqueduct belonging to said city and now existing; and may construct and lay conduits, pipes and other works under or over lands, water courses, railroads, railways, public or private ways and along such ways; and may take by purchase or otherwise and hold in fee or otherwise any lands, dams or structures, easements or rights in land on and around said Kendall brook and reservoir up to an elevation of about eight hundred and fifty feet above said mean sea level, and between said Kendall reservoir and other reservoirs of said city on Tatnuck brook in said Holden, and between said Kendall reservoir and said Asnebumskit brook up to an elevation of about nine hundred and forty feet above said mean sea level; and the said city may build and maintain dams, conduits, canals, water courses, pipes, reservoirs, and such other works as may be deemed necessary for collecting, purifying, storing, discharging, conducting or distributing said waters or preserving the purity thereof.

SECT. 2. The rights herein granted to the city of Worcester shall be subject to the rights granted to the Leicester Water Supply District by chapter two hundred and thirty of the acts of the year eighteen hundred and ninety-five, and if said Leicester Water Supply District shall exercise any rights conferred by said chapter after the taking herein authorized to be made by the city of Worcester the Leicester Water Supply District shall pay to the city of Worcester all damages thereby sustained by it, to be ascertained and determined in the manner and within the time set forth in chapter three hundred and sixty-one of the acts of the year eighteen hundred and seventy-one: *provided*, that from the time when the city of Worcester first diverts the waters of Asnebumskit brook, until the time when an additional source of water supply embracing more than twenty-five square miles of watershed is obtained for the metropolitan water district, the city of Worcester shall not draw water from the sources authorized by this act when water is running to waste past the lowest water works dam of said city on Tatnuck brook; nor, in case the amount of water stored in the reservoirs on Tatnuck brook exceeds one half the total capacity of such reservoirs, shall the city draw water from the sources so authorized when

The rights herein granted the City of Worcester to be subject to the rights granted the Leicester Water Supply District, etc.

water is running to waste past the lowest water works dam of said city on either Tatnuck brook or Lynde brook; nor, in case the amount of water stored in the reservoirs on Tatnuck brook exceeds three fourths of the total capacity of such reservoirs, shall the city draw water from the sources so authorized when water is running to waste past the lowest water works dam of said city on either Tatnuck brook or Lynde brook or Kettle brook, except that the fact of a waste of water past the Kettle brook dam shall not prevent the drawing of water as aforesaid, if the flow of Kettle brook at the head of the conduit or conduits which convey its water toward the Lynde brook reservoir is in excess of the capacity of such conduit or conduits.

By whom
rights, powers
and authority
shall be exer-
cised, etc.

SECT. 3. The rights, powers and authority given by this act shall be exercised by the city of Worcester from time to time by such officers, servants and agents as the city council may appoint, ordain and direct, and said city shall be entitled to all rights and, except as herein otherwise provided, shall be subject to all the duties and liabilities set forth in chapter three hundred and sixty-one of the acts of the year eighteen hundred and seventy-one.

Damages.

SECT. 4. The city shall be liable for all damages to property sustained by the commonwealth or by any persons by the taking of any land, easements, rights in land, water or water rights as aforesaid, or by the construction of any aqueducts, reservoirs or other works by authority hereof, the same to be ascertained and determined so far as the commonwealth is concerned in the manner set forth in chapter four hundred and fifty-six of the acts of the year eighteen hundred and ninety-seven, and so far as all other persons are concerned in the manner and within the time set forth in said chapter three hundred and sixty-one of the acts of the year eighteen hundred and seventy-one: *provided, however,* that no application shall be made for the assessment of damages for the taking of any water or water rights or for any injury thereto until the water is actually diverted under authority of this act, and no water shall be diverted until said city has given at least six months notice to all parties by publishing the same in two daily newspapers published in said Worcester, said notice to set forth the fact that said city intends to divert said waters and to fix the exact day upon which it intends to divert the same; and the day so fixed shall be deemed the time of actual diversion, and the application aforesaid may be made within one year after such actual diversion.

Worcester
Water Scrip.

SECT. 5. For the purpose of defraying all costs and expenses incident to the acts herein authorized, including the payment for land, water and water rights taken or purchased, the city council shall have authority to borrow from time to time such sums of money as it shall deem necessary, to an amount not exceeding five hundred thousand dollars, and to issue therefor notes, bonds or certificates of indebtedness, to be

denominated on the face thereof, Worcester Water Scrip, and subject to the provisions of chapter twenty-seven of the Revised Laws.

SECT. 6. This act shall take effect upon its passage.

[Approved April 29, 1902.]

1902. — CHAPTER 391.

AN ACT TO PROVIDE FOR THE MEASUREMENT OF WATER SUPPLIED TO CITIES AND TOWNS BY THE METROPOLITAN WATER AND SEWERAGE BOARD.

Be it enacted, etc., as follows :

SECTION 1. The metropolitan water and sewerage board is hereby authorized to construct and maintain such works and to provide such other means as it may deem necessary for measuring the water supplied to each of the cities and towns in the metropolitan water district, and the expenses thereof shall be considered as a part of the expenditure required for the construction and maintenance, respectively, of the metropolitan water works.

Measurement of water supplied to cities and towns in the Metropolitan Water District.

SECT. 2. The said board shall report to the next general court the quantity of water supplied to each of the said cities and towns, and shall also report whether water is being used therein unnecessarily or improperly, and shall make recommendations as to the manner in which waste may be prevented and as to the manner in which the consumption of water may be considered in the apportionment among the cities and towns of the annual assessment required for the construction and maintenance of the metropolitan water works.

Report of quantity of water supplied to each city and town, etc.

SECT. 3. This act shall take effect upon its passage.

[Approved May 13, 1902.]

1902. — CHAPTER 392.

AN ACT TO AUTHORIZE THE TOWN OF NATICK TO ENLARGE AND IMPROVE ITS SYSTEM OF WATER SUPPLY.

Be it enacted, etc., as follows :

SECTION 1. The town of Natick, acting by its water commissioners, may enlarge and improve its system of water supply established under the provisions of chapter seventy-six of the acts of the year eighteen hundred and seventy-three and acts in amendment thereof and in addition thereto, and may construct and maintain driven, artesian or other wells upon a parcel of land owned by the town and bounded northerly by Worcester street, easterly by the Saxonville branch of the Boston and Albany railroad, and southerly and westerly by land of the city of Boston; may take, hold and convey into and

Natick may take waters and lands, etc.

through said land, and thence through said town, from Lake Cochituate, at any convenient point upon the same, within said town and within one half mile of said parcel of land, sufficient water for the use of said town and its inhabitants for the extinguishment of fires and for domestic and other purposes; may take, for the purposes aforesaid, by purchase or otherwise, and hold any lands, rights of way and easements necessary for laying, constructing and maintaining pipes, aqueducts, watercourses, reservoirs, and such other works as may be necessary for holding, conveying and distributing said water or for preserving the purity thereof; and may construct and lay conduits, pipes and other works, under and over any land, watercourses, railroads, railways or public or private ways, in such manner as not unnecessarily to obstruct the same.

Certain rights
not affected.

SECT. 7. Nothing in this act shall be construed to affect any existing right of said town to take water from Lake Cochituate, or to abridge any rights heretofore granted to the town in respect to its water supply; and the powers specified in this act shall be held to be in addition to all powers heretofore granted.

SECT. 8. This act shall take effect upon its passage.

[Approved May 13, 1902.]

1902. — CHAPTER 488.

AN ACT TO PROVIDE FOR SUPPLYING THE TOWN OF WAKEFIELD WITH WATER.

Be it enacted, etc., as follows:

Admission of
town of
Wakefield into
the metropoli-
tan water
district.

SECTION 1. The metropolitan water and sewerage board shall on application admit the town of Wakefield into the metropolitan water district and furnish water to the same on the terms prescribed by chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five, subject however to the provisions of sections fourteen and fifteen of this act.

Town of
Wakefield
may supply
itself with
water, etc.

SECT. 2. The town of Wakefield may supply itself and its inhabitants with water for the extinguishment of fires and for domestic and other purposes, obtaining the same from said board by applying to be admitted into said district, or from any other source at any time authorized by law, and may establish fountains and hydrants and relocate or discontinue the same, and may regulate the use of such water and fix and collect rates to be paid for the use of the same.

May take cer-
tain waters,
lands, etc.

SECT. 3. The said town, for the purposes aforesaid, may hold and convey through the town the water to be furnished by the metropolitan water and sewerage board or obtained from any other source authorized by law, and may take by purchase or otherwise and hold and convey through said town the waters

of any pond, stream, spring or wells within the limits of said town not heretofore taken or purchased and owned by the Wakefield Water Company, and may hold and convey through said town water from any source obtained as hereinafter provided from the Wakefield Water Company, and may also take, by purchase or otherwise, and hold all lands, rights of way and easements necessary for holding, storing, purifying and preserving such water and for conveying the same to any part of said town; may erect on the land thus taken or held proper dams, reservoirs, buildings, fixtures or other structures; may make excavations, procure and operate machinery, and provide such other means and appliances as may be necessary for the establishment and maintenance of complete and effective water works; and may construct and lay conduits, pipes and other works, under and over any lands, watercourses, railroads, railways or public or private ways, and along any such way, in such manner as not unnecessarily to obstruct the same; and for the purposes of constructing, maintaining and repairing such conduits, pipes, or other works, and for all proper purposes of this act, said town may dig up any such lands, and may enter upon and dig up any such ways in such manner as to cause the least hindrance to public travel thereon. The title to all land taken or purchased under the provisions of this act shall vest in said town, and the land so taken may be managed, improved and controlled by the board of water commissioners hereinafter provided for, in such manner as they shall deem for the best interests of said town.

May lay conduits, pipes, etc.

Title to land to vest in town, etc.

SECT. 14. If within thirty days after this act shall have been accepted by the town of Wakefield, as hereinafter provided, the Wakefield Water Company shall notify the selectmen of said town in writing that it desires to sell to said town all its rights to take water from Crystal lake and all other sources for supplying the town of Wakefield and its inhabitants with water, and any or all of its other property situated within said town, and any and all of its property in the town of Stoneham, or so much thereof as is used for supplying water to the town of Wakefield or its inhabitants, and shall file with the town clerk of said town specifications and descriptions of said property, said town shall not proceed to construct a distributing system for the water to be supplied to it and its inhabitants under the authority of this act unless it shall first purchase of said company the property aforesaid which said company has notified the selectmen of said town in writing that it desires to sell as aforesaid; and said company is authorized to make sale of said property to said town and said town is authorized to purchase the same and to manage and use the property thus acquired for the purposes and under the provisions of this act. Whenever said town by a majority vote of its legal voters present and voting thereon at a special meeting called for that pur-

Town of Wakefield may purchase property of Wakefield Water Company, etc.

pose, or at the annual town meeting, as provided in section sixteen of this act, shall vote to purchase said property,¹ notice of the desire of said company to sell the same having been given as hereinbefore provided, said company shall within two years after the vote aforesaid execute and deliver to said town proper deeds and writings conveying to said town the property aforesaid, free and clear from all encumbrances; said property shall thereupon become the property of said town, and said town shall thereupon take possession of said property and operate the same and pay to said company the fair value thereof, to be ascertained as hereinafter provided, and upon said conveyances all rights of said company to furnish said town and its inhabitants with water shall cease. In case said company fails to perform and observe all the terms set forth in this section, then said town may proceed to construct, operate and maintain a water supply system and furnish itself and its inhabitants with water as hereinbefore provided.

Acceptance of
act.

SECT. 16. This act, except as provided in section seventeen, shall take effect upon its acceptance by a majority vote of the voters of the town of Wakefield present and voting thereon at the next annual town meeting, or at a special town meeting called for the purpose within two years after its passage; but the number of meetings so specially called shall not exceed three. Said vote shall be taken by separate ballot, with the use of the voting list, and the polls shall be open at least four hours. The vote shall be "Yes," or "No," in answer to the question printed upon the ballot: — Shall the town of Wakefield accept chapter _____ of the Acts of the year nineteen hundred and two, entitled "An Act to provide for supplying the town of Wakefield with water?"²

When to take
effect.

SECT. 17. So much of this act as authorizes its submission to the legal voters of said town shall take effect upon its passage, but it shall not take further effect until accepted as hereinbefore provided by the legal voters of said town.

[Approved June 19, 1902.]

1902. — CHAPTER 535.

AN ACT RELATIVE TO PROTECTING THE PURITY OF WATER BY THE METROPOLITAN WATER AND SEWERAGE BOARD.

Be it enacted, etc., as follows:

Protection of
purity of water
by Metropoli-
tan Water and
Sewerage
Board.
185 Mass. 10.

SECTION 1. The metropolitan water and sewerage board shall not in the case of any manufacturing plant or tannery now in operation upon the watershed of the south branch of the Nashua river above the main dam in Clinton enforce the rules and regulations made by the state board of health under the

¹ Town voted to purchase July 20, 1903.

² Accepted July 16, 1903.

provisions of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five, and acts in amendment thereof and in addition thereto, until said board has constructed works for the removal or purification of manufacturing refuse or polluting liquid incident to or resulting from the processes of such manufacturing plant or tannery: *provided*, that the owner of such manufacturing plant or tannery consents, without charge therefor, to the construction of suitable works upon his land and within his buildings so far as such works can be constructed thereon or therein. The amount paid for such works shall be considered as a part of the expense of construction of the metropolitan water works, and such works shall be maintained and operated as a part of said water works.

SECT. 2. This act shall take effect upon its passage.

[Approved June 27, 1902.]

1903. — CHAPTER 443.

[See 1904, 299.]

AN ACT TO AUTHORIZE THE CITY OF MARLBOROUGH TO INCUR INDEBTEDNESS FOR SEWERAGE PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. The city of Marlborough, for the purpose of constructing sewers and of extending and improving its system of sewerage and sewage disposal, may incur indebtedness to the amount of twenty-five thousand dollars beyond its debt limit as fixed by law, and in addition to the amount heretofore authorized by law for sewerage purposes; and may issue bonds, notes or scrip therefor. Such bonds, notes or scrip shall be payable within such periods, not exceeding thirty years from the dates thereof, and shall bear such rate of interest not exceeding four per cent. per annum, as the city council shall determine. Except as otherwise provided herein the provisions of chapter twenty-seven of the Revised Laws and of acts in amendment thereof and in addition thereto shall, so far as they may be applicable, apply to the indebtedness hereby authorized, and to the securities issued therefor.

Indebtedness
for sewerage
authorized.
See St. 1904,
c. 299.

SECT. 2. The city of Marlborough for the better protection from pollution of the metropolitan water supply, shall, within six months after the passage of this act, construct an additional main sewer in accordance with plans satisfactory to the metropolitan water and sewerage board, from a point near the junction of Maple street and Mill street in said city, to the sewerage disposal area of the city. The commonwealth shall repay to the said city the reasonable cost of constructing such additional main sewer, and for that purpose the treasurer of the commonwealth shall, within sixty days after the date of the completion of said sewer, upon the certificate of the metropolitan water and

Additional
main sewer.

sewerage board, pay to the city of Marlborough said cost of construction from the funds of the Metropolitan Water Loan.

SECT. 3. This act shall take effect upon its passage.

[Approved June 19, 1903.]

1904. — CHAPTER 186.

AN ACT TO EXTEND THE TIME FOR FILING PETITIONS FOR DAMAGES AND OFFERS OF SURRENDER OF REAL ESTATE UNDER THE ACT TO PROVIDE FOR A METROPOLITAN WATER SUPPLY.

Be it enacted, etc., as follows :

Amendment to
St. 1889, c. 342,
§ 1.

SECTION 1. Section one of chapter three hundred and forty-two of the acts of the year eighteen hundred and ninety-nine, as amended by section one of chapter one hundred and eight of the acts of the year nineteen hundred, and by section one of chapter four hundred and ninety-eight of the acts of the year nineteen hundred and one, is hereby further amended by striking out the word "four", in the seventeenth line, and inserting in place thereof the word: — five, — so as to read as follows: —

Limit of time
for filing peti-
tions.
192 Mass. 570,
572.

Section 1. Petitions under the provisions of section fourteen of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five, or of section one of chapter four hundred and forty-five of the acts of the year eighteen hundred and ninety-seven, and acts in amendment thereof or in addition thereto, for the determination of damages for the taking of real estate may be filed, as provided by law, within two years after the actual taking by right of eminent domain of such real estate or of any interest therein, and petitions for the determination of damages for the taking of water rights where no land is taken in connection with such water rights, and for the determination of all other damage provided for in said acts, and offers of surrender of real estate provided for in said acts, may be filed on or before the first day of July in the year nineteen hundred and five.

SECT. 2. This act shall take effect upon its passage.

[Approved March 29, 1904.]

1904. — CHAPTER 273.

AN ACT TO AUTHORIZE THE LAYING OF WATER PIPES OR MAINS UNDER OR OVER TIDE WATER.

Be it enacted, etc., as follows :

Water pipes or
mains may be
carried under
or over tide
waters, etc.

SECTION 1. The metropolitan water and sewerage board, and the water board, water commissioners or superintendent of any city or town in the metropolitan water district, in exercising the powers or discharging the duties conferred or imposed

by chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five and acts in amendment thereof and in addition thereto, may carry and conduct any aqueduct, conduit, pipe, drain or wire under or over tide waters or the waters of Boston harbor by such methods and in such manner as the board of harbor and land commissioners shall approve.

SECT. 2. This act shall take effect upon its passage.

[Approved April 29, 1904.]

1904. — CHAPTER 299.

AN ACT TO CONFIRM A CERTAIN AGREEMENT BETWEEN THE METROPOLITAN WATER AND SEWERAGE BOARD AND THE CITY OF MARLBOROUGH, RELATIVE TO BUILDING AN ADDITIONAL MAIN SEWER AND FILTER BEDS FOR SAID CITY.

Be it enacted, etc., as follows :

SECTION 1. The agreement signed by the mayor of the city of Marlborough, for that city, and by the metropolitan water and sewerage board, for the commonwealth, dated October five, nineteen hundred and three, and recorded with Middlesex south district registry of deeds, book 3091, page 101, providing for the construction and maintenance of an additional main sewer and filter beds for the disposal of a part of the sewage of said city, as a substitute for the additional main sewer provided for by chapter four hundred and forty-three of the acts of the year nineteen hundred and three, is hereby ratified and confirmed; and all action taken, all construction work done and all payments made under said agreement in the construction of said additional main sewer and filter beds, are hereby ratified, approved and made valid, as fully as if such additional main sewer had been constructed in accordance with the provisions of said chapter.

Certain agreements between city of Marlborough and metropolitan water and sewerage board confirmed.

SECT. 2. This act shall take effect upon its passage.

[Approved May 6, 1904.]

1904. — CHAPTER 406.

AN ACT TO PROVIDE FOR THE IMPROVEMENT OF SPOT POND BROOK BY THE METROPOLITAN WATER AND SEWERAGE BOARD.

Be it enacted, etc., as follows :

SECTION 1. The metropolitan water and sewerage board shall improve or change the channel of Spot Pond brook between Spot Pond in the town of Stoneham and tide water in the city of Malden substantially in accordance with the plans and recommendations of the board contained in its report to the

The metropolitan water and sewerage board to improve Spot Pond brook, etc.

general court of nineteen hundred and three, being house document number one thousand and eighty-seven of that year.

May take
lands, ease-
ments, etc.

SECT. 2. The board, for the purpose aforesaid, may from time to time take, in fee or otherwise, by purchase or otherwise, for the commonwealth or for the city of Malden or for the city of Melrose, as the board shall determine, lands, easements, rights and other property, and, in order to take any property by right of eminent domain, shall sign and cause to be recorded in the registry of deeds for the county and district in which the property to be taken is situated a description thereof as certain as is required in a common conveyance of land; the recording shall constitute the taking.

Damages.

SECT. 3. Any person whose property is injured by the taking, or by changing the channel of said brook, altering its course, or diverting the waters thereof or increasing or diminishing the daily flow of said waters, may have compensation therefor as determined by agreement with the board, and if the parties cannot agree upon the damages, they may be determined by a jury of the superior court for the county in which the property is situated under the provisions, so far as they may be applicable, of chapter forty-eight of the Revised Laws, upon petition therefor by the board or person filed in the clerk's office of the court within one year after the taking, changing or altering, and the petitioner shall have judgment for the amount determined, with interest on the excess of the amount over the award of the board and costs if the amount is greater than the award of the board; otherwise the petitioner shall recover no interest and shall pay costs.

Commission-
ers to be ap-
pointed; pow-
ers and duties.

SECT. 4. Any justice of the supreme judicial court sitting in equity for the county of Suffolk, on application of the metropolitan water and sewerage board or of the city of Malden or of the city of Melrose, within three months after the passage of this act, shall, after such notice as the court shall order, appoint three commissioners, and may appoint a new commissioner on the occurring of any vacancy. The commissioners, after such notice as they shall deem proper, shall hear the parties and make award of the proportion in which the expenses of carrying out this act shall be paid by the metropolitan water district, the city of Malden, and the city of Melrose. The commissioners shall take into consideration in making their award the responsibility of said parties in connection with the present condition of said brook and the waters thereof, their rights in, to and over said brook and the waters thereof, their rights in, to and over said Spot pond, its waters and watershed so far as they relate to said brook, and the benefits which will accrue to said parties from the proposed improvements; and shall make their award on these bases and return it into court with a statement of the questions of law raised by either party and the findings of the commissioners thereon.

Findings and
award, etc.

SECT. 5. Any justice of the said court sitting in equity for the county of Suffolk may accept the findings and award, and

either party may except thereto; or the justice may report the case with such of said questions of law as either party may request to the supreme judicial court of the commonwealth. Said court may determine the questions submitted and accept the award, or may amend and accept the award, or may remand the award to the commissioners for further hearing, report and acceptance, in accordance with said determination: *provided, however*, that if the city of Malden by vote of its city council, or the city of Melrose by vote of its city council, or the metropolitan water and sewerage board, shall, within four months after the acceptance of the award, file with the court objection to carrying on the work, it shall not be begun until the objection be withdrawn, but if no such objection be filed, or be filed and withdrawn within one year thereafter, the clerk of the court shall notify the parties thereof, and the work shall thereupon proceed as hereinbefore provided. The metropolitan water and sewerage board shall pay the compensation and expense of the commission as approved by the court, and during and after the completion of the work shall keep the channels, conduits and culverts in repair and pay the expense thereof, and the compensation and expenses so paid shall be assessed and repaid as the expense of construction is to be repaid.

Payment of compensation and expenses of commission, etc.

SECT. 6. The other expenses incurred in carrying out the provisions of this act shall be paid by the commonwealth, and the treasurer and receiver general shall, from time to time, on request of the board, issue and sell notes, bonds or scrip of the commonwealth to an amount not exceeding two hundred and twenty-five thousand dollars, designated on the face thereof, Metropolitan Water Loan, and use the proceeds to meet said expenses and to meet the interest and sinking fund requirements of the loan until the award has been accepted, and the provisions of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five and acts in amendment thereof and in addition thereto shall, so far as they may be applicable, apply to said loan.

Metropolitan Water Loan.

Certain provisions of law to apply.

SECT. 7. The cities of Malden and Melrose shall respectively pay to the treasurer of the commonwealth each year the interest and sinking fund requirements of such part of the loan aforesaid as shall be equal to the amount of said expenses which the cities respectively are required by the award to pay, and the interest and sinking fund requirements of the remainder of the loan shall be paid by all the cities and towns in the metropolitan water district, as other expenses of the water works are paid.

Payment of loan, etc.

SECT. 8. The commissioners shall, within six months after the completion of the work of construction, if in their opinion any land receives a benefit from the improvement authorized by this act beyond the general benefit to all land in said cities, determine the value thereof, and assess upon the land a proportional share of the cost of such improvement, not exceeding the value of the benefit; and any party so assessed may have

Assessment and collection of betterments.

the amount of the assessment determined by a jury of the superior court of the county in which the land is situated, under the provisions, so far as they may be applicable, of chapter fifty of the Revised Laws, but without interests or costs, if the assessment is not less than the amount determined by the jury, and the assessment shall constitute a lien upon the land assessed until paid. Every such assessment shall be certified by the clerk of said court to the collector of the city in which the land lies, and collected by him in the manner provided for the collection of taxes, and the proceeds thereof shall be paid to the treasurer of the commonwealth and used to meet the interest and sinking fund requirements of the loan authorized by this act.

SECT. 9. Except as otherwise provided herein this act shall take effect upon its passage. *[Approved June 3, 1904.]*

1904. — CHAPTER 426.

AN ACT RELATIVE TO THE APPORTIONMENT OF THE ANNUAL ASSESSMENTS REQUIRED FOR THE CONSTRUCTION AND MAINTENANCE OF THE METROPOLITAN WATER SYSTEM.

Be it enacted, etc., as follows :

Apportionment of annual assessments for construction and maintenance of the metropolitan water system. 1895, 488, § 19.

Superseded by St. 1906, c. 457.

The treasurer and receiver general of the commonwealth, for the purpose of making the apportionment to the cities and towns in the metropolitan water district of the amount required in each year to pay the interest, sinking fund requirements and expenses of maintenance and operation of the metropolitan water system provided for by section nineteen of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five, as amended by chapter four hundred and eighty-nine of the acts of the year nineteen hundred and one, shall, in the year nineteen hundred and six and in each year thereafter, apportion to the city of Boston the proportion of such amount which the valuation of that city for the preceding year bears to the total of all such valuations of all cities and towns in said water district: *provided, however*, that there shall be included only one fifth of the total valuation of every such city and town which has not reached the safe capacity of its present sources of supply in a dry year or of the sources of supply of the water company by which it is supplied, as determined by the metropolitan water and sewerage board and certified to said treasurer, or which has not made application to said board for water; and the remainder to the other cities and towns in said district, one third in proportion to their respective valuations for the preceding year and the remaining two thirds in proportion to the consumption by the cities and towns respectively in the preceding year of water received from all sources of supply as determined by said board and certified to said treasurer, including however only one-fifth of the total valuation and not

including any consumption of water for any such city or town which has not reached the safe capacity of its present sources of supply or of the sources of supply of the water company by which it is supplied as aforesaid, or which has not made application to said board for water; and *provided, further*, that any city or town assessed upon its full valuation which obtains a part of its water supply from its own works or receives a supply from a water company shall be allowed and credited in its apportionment with a sum equal to twelve dollars for each million gallons of water furnished as aforesaid, as determined by said board and certified to said treasurer. The treasurer shall in each year notify each city and town of the amount of its assessment, and the same shall be paid by the city or town into the treasury of the commonwealth at the time required for the payment and as part of its state tax. [Approved June 4, 1904.]

Payment of
assessments.

1904. — CHAPTER 431.

AN ACT RELATIVE TO THE APPROVAL OF CERTAIN OFFICIAL BONDS.

Be it enacted, etc., as follows :

SECTION 1. The official bonds given by persons designated to receipt for advances of money by the metropolitan park commission and the metropolitan water and sewerage board, which have heretofore been approved by the auditor of accounts, shall hereafter be approved by the treasurer and receiver general.

Approval of
certain official
bonds.

SECT. 2. This act shall take effect upon its passage.

[Approved June 4, 1904.]

1904. — CHAPTER 436.

AN ACT RELATIVE TO COMPENSATION FOR DAMAGES OCCASIONED IN THE TOWN OF BOYLSTON BY THE CONSTRUCTION OF THE METROPOLITAN WATER SYSTEM.

Be it enacted, etc., as follows :

SECTION 1. The owner of any real estate situated in that part of the town of Boylston on the southerly and southeasterly side of the metropolitan water basin known as the Wachusett reservoir, and within the limits of the Nashua river watershed, not taken but directly or indirectly decreased in value by reason of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five and amendments thereof, entitled "An Act to provide for a metropolitan water supply", or by the doings of the metropolitan water board or of the metropolitan water and sewerage board thereunder, shall have the same right to damages for such decrease in value, to be determined and recovered in the same way, as is provided for owners

Compensation
for damages
occasioned in
town of Boyl-
ston by the
construction of
the metropoli-
tan water
system.

of certain real estate in the town of West Boylston by section fourteen of said chapter: *provided*, that the petition required by said section is filed within two years after the passage of this act; but no owner shall have the right to surrender his real estate to the commonwealth in the manner provided in said chapter.

Certain rules and regulations not to constitute an element of damage.

SECT. 2. The rules and regulations of the state board of health or of the metropolitan water and sewerage board now or hereafter in force for the sanitary protection of water or sources of water supply shall not constitute an element of damage within the meaning of this act.

SECT. 3. This act shall take effect upon its passage.

[Approved June 8, 1904.]

1905. — CHAPTER 457.

AN ACT RELATIVE TO ASSESSMENTS UPON CITIES AND TOWNS IN THE METROPOLITAN WATER, SEWERAGE AND PARK DISTRICTS.

Be it enacted, etc., as follows:

Assessments upon cities and towns in the metropolitan water, sewerage and park districts.

SECTION 1. In case any apportionment for assessment upon the cities and towns of either the metropolitan water, sewerage or park districts shall not have been finally determined by July first of any year, the last apportionment thereof shall remain in force for the purpose of assessment during such current year. Any difference between such apportionment when finally made by the commission, for such year, and the preëxisting apportionment above referred to, shall be adjusted with such city or town by the treasurer and receiver general in the assessment of the succeeding year by a deduction therefrom or an addition thereto, as may be required to give effect to the said apportionment when made as aforesaid.

SECT. 2. This act shall take effect upon its passage.

[Approved May 25, 1905.]

1906. — CHAPTER 235.

AN ACT RELATIVE TO THE ANNUAL REPORTS OF THE METROPOLITAN WATER AND SEWERAGE BOARD.

Be it enacted, etc., as follows:

Report of metropolitan water and sewerage board.

SECTION 1. The metropolitan water and sewerage board shall, on or before the third Wednesday in January in each year, in accordance with the provisions of chapter two hundred and eleven of the acts of the year nineteen hundred and five, report to the general court an abstract of its receipts, expenditures, disbursements, assets and liabilities for the preceding fiscal year, as required by said act, together with all recommendations for

legislation which it deems desirable, and shall in the month of February present a more detailed statement of its doings for the calendar year next preceding, the same to be printed as its annual report for the year.

SECT. 2. This act shall take effect upon its passage.

[Approved April 2, 1906.]

1906. — CHAPTER 337.

AN ACT RELATIVE TO PREMIUMS RECEIVED FROM THE SALE OF METROPOLITAN WATER LOAN BONDS.

Be it enacted, etc., as follows :

SECTION 1. Premiums received from the sale of bonds issued on account of the Metropolitan Water Loan, under section seventeen of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five, and acts in amendment thereof and in addition thereto, shall hereafter be paid into the sinking fund for the extinguishment of the principal indebtedness.

Premiums for sale of securities to be paid into sinking fund.

SECT. 2. This act shall take effect upon its passage.

[Approved April 30, 1906.]

1906. — CHAPTER 367.

AN ACT TO PROVIDE FOR AN ADDITIONAL METROPOLITAN WATER LOAN.

Be it enacted, etc., as follows :

SECTION 1. The treasurer and receiver general shall from time to time, upon the request of the metropolitan water and sewerage board, issue negotiable bonds in the name and behalf of the commonwealth and under its seal, designated on the face thereof, Metropolitan Water Loan, to an amount not exceeding five hundred thousand dollars in addition to the forty million dollars authorized to be issued under the provisions of section seventeen of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five, and of chapter four hundred and fifty-three of the acts of the year nineteen hundred and one; and the provisions of said chapter four hundred and eighty-eight and of acts in amendment thereof and in addition thereto shall apply to this additional loan to the same extent as if the amount authorized by said act had been forty million five hundred thousand dollars instead of twenty-seven million dollars.

Additional Metropolitan Water Loan. 1896, 488, § 17.

SECT. 2. This act shall take effect upon its passage.

[Approved May 8, 1906.]

1906. — CHAPTER 404.

AN ACT RELATIVE TO THE DISPOSITION OF THE MONEY RECEIVED FROM MUNICIPALITIES FOR ADMISSION TO THE METROPOLITAN WATER DISTRICT.

Be it enacted, etc., as follows :

Sums received to be applied to cost of connecting water pipes, etc.

SECTION 1. All sums of money which shall hereafter be received under section three of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five, providing for a metropolitan water supply, for the admission of a city or town into the metropolitan water district, shall be applied to the payment of the cost of connecting such city or town with the pipes and works of the metropolitan water district, and after such cost is paid the balance shall be applied by the treasurer and receiver general to the sinking fund established for the payment of bonds issued on account of the metropolitan water district.

SECT. 2. All acts and parts of acts inconsistent herewith are hereby repealed.

SECT. 3. This act shall take effect upon its passage.

[Approved May 21, 1906.]

1906. — CHAPTER 457.

AN ACT RELATIVE TO THE APPORTIONMENT OF THE ANNUAL ASSESSMENTS REQUIRED FOR THE CONSTRUCTION AND MAINTENANCE OF THE METROPOLITAN WATER SYSTEM.

Be it enacted, etc., as follows :

Apportionment of cost to cities and towns in the metropolitan water district.

The treasurer of the commonwealth, for the purpose of making the apportionment to the cities and towns in the metropolitan water district of the amount required in each year to pay the interest, sinking fund requirements and expenses of maintenance and operation of the metropolitan water system provided for by section nineteen of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five, as amended by chapter four hundred and eighty-nine of the acts of the year nineteen hundred and one, shall, in the year nineteen hundred and seven, and in each year thereafter, apportion such amount to the cities and towns in said district, one third in proportion to their respective valuations for the preceding year and the remaining two thirds in proportion to the consumption by the cities and towns, respectively, in the preceding year, of water received from all sources of supply as determined by the metropolitan water and sewerage board, and certified to said treasurer: *provided, however, that there shall be*

included in reckoning such proportion only one fifth of the total valuation, and nothing for consumption of water, for any city or town which has not reached the safe capacity of its present sources of supply or of the sources of supply of the water company by which it is supplied, determined as aforesaid, or which has not made application to said board for water; and *provided, further*, that any city or town assessed upon its full valuation which obtains a part of its water supply from its own works or receives a supply from a water company shall be allowed and credited in its apportionment with a sum equal to twelve dollars for each million gallons of water furnished as aforesaid, as determined by said board and certified to said treasurer. The treasurer shall annually notify each city and town of the amount of its assessment, and the same shall be paid by the city or town into the treasury of the commonwealth at the time required for the payment of and as part of its state tax.

[*Approved June 6, 1906.*]

1906. — CHAPTER 498.

AN ACT TO MAKE EFFECTIVE THE AWARD OF THE COMMITTEE APPOINTED BY THE GOVERNOR TO DETERMINE THE DAMAGES CAUSED TO THE TOWN OF CLINTON BY THE CONSTRUCTION OF THE METROPOLITAN WATER SYSTEM.

Be it enacted, etc., as follows:

SECTION 1. The treasurer of the commonwealth shall pay to the town of Clinton as a part of the expense of the metropolitan water system, the sum of sixty-four thousand nine hundred and eighty-eight dollars on or before the fifteenth day of November in the year nineteen hundred and six.

Payment to the town of Clinton on account of construction of the metropolitan water system. 1895, 488, § 16.

SECT. 2. All property held by the metropolitan water and sewerage board, or its successors, in the town of Clinton, outside of the dam and dike, used in the generation or sale of electricity for power or for manufacturing purposes, shall be subject to taxation. The provisions for the assessment and collection of taxes contained in chapters twelve and thirteen of the Revised Laws shall apply to such property.

Taxation.

SECT. 3. All acts and parts of acts inconsistent herewith are hereby repealed.

Repeal.

SECT. 4. This act shall take effect upon its passage.

[*Approved June 18, 1906.*]

1906. — CHAPTER 530.

AN ACT TO AUTHORIZE THE METROPOLITAN WATER AND SEWERAGE BOARD TO SELL CERTAIN PROPERTY FOR THE RELOCATION OF A PUBLIC WAY IN THE TOWN OF FRAMINGHAM.

Be it enacted, etc., as follows:

Sale of prop-
erty in Fram-
ingham.
1896, 488, § 11.

SECTION 1. The metropolitan water and sewerage board may, in its discretion sell, lease or exchange by public or private sale any property of the commonwealth held and used for water supply purposes, situated in the town of Framingham, southerly of and abutting on or adjacent to the Boston and Worcester turnpike, so-called, whether taken by the commonwealth by eminent domain or otherwise, if such property is deemed necessary for the alteration, relocation or widening of any public way upon which said property abuts, and is not deemed necessary by said board for public purposes.

SECT. 2. This act shall take effect upon its passage.

[Approved June 27, 1906.]

1906. — CHAPTER 533.

AN ACT TO PROVIDE FOR CERTAIN ANNUAL PAYMENTS TO THE TOWN OF HOLDEN ON ACCOUNT OF THE CONSTRUCTION OF THE METROPOLITAN WATER SYSTEM.

Be it enacted, etc., as follows:

Payments to
the town of
Holden
authorized.

SECTION 1. The treasurer of the commonwealth shall pay annually, as a part of the expenses of the metropolitan water system, on or before the thirty-first day of December, to the town of Holden an amount equal to the average assessment made by the assessors of said town for the three years preceding the purchase of said property by the commonwealth on all real estate taken or acquired and held by the commonwealth as a part of the metropolitan water system, on the first day of May in each year, such payment to be in place of taxes, and any other payments required by law on such property: *provided*, that, if any buildings standing on land taken or acquired and held by the commonwealth, as aforesaid, are removed and remain in said town, the value of such buildings, as newly located, shall be deducted by the assessors from the said amount. The words "real estate" as used in this section shall include water rights, and in the case of mills, all machinery therein.

SECT. 2. This act shall take effect upon its passage.

[Approved June 29, 1906.]

1906.—RESOLVES.—CHAPTER 35.

RESOLVE TO AUTHORIZE THE TREASURER AND RECEIVER GENERAL TO BORROW MONEY IN ANTICIPATION OF ASSESSMENTS FOR THE METROPOLITAN DISTRICTS AND FOR ARMORIES.

Resolved, That in anticipation of the assessments of the present year for the metropolitan districts and for armories, the treasurer and receiver general is hereby authorized to borrow at any time before December first, nineteen hundred six, such sums of money as may from time to time be necessary for the payment of the interest and maintenance charges of the metropolitan districts and of armories, at such rates of interest as shall be found necessary, and that he shall repay any sums borrowed under this resolve as soon after said assessments are paid as is expedient; and the treasurer and receiver general is hereby authorized to collect from the cities and towns of said metropolitan districts and armories proportionately, all interest that may be paid upon money borrowed under this resolve.

Borrowing of money in anticipation of certain revenue.
1896, 488, § 19.

[*Approved March 24, 1906.*]

• 1907.—CHAPTER 165.

AN ACT RELATIVE TO ASSESSMENTS FOR THE MAINTENANCE OF THE METROPOLITAN PARK, SEWER AND WATER DISTRICTS.

Be it enacted, etc., as follows:

SECTION 1. Annual appropriations shall be made for the maintenance of parks and boulevards under the charge of the metropolitan park commission, and for the maintenance of the north and south metropolitan systems of sewerage, and for the maintenance of the metropolitan water system under the control of the metropolitan water and sewerage board, and such appropriations shall be apportioned and assessed by the treasurer and receiver general in the manner now provided by law.

Annual appropriations for maintenance of metropolitan systems.

SECT. 2. Of the amount so assessed and collected, any balance remaining on the thirtieth day of November in any year shall be carried forward to the next year, and shall be taken into account in making the assessments for that year.

Balances to be carried forward.

SECT. 3. All acts and parts of acts inconsistent with this act are hereby repealed.

Repeal.

SECT. 4. This act shall take effect upon its passage.

[*Approved March 4, 1907.*]

1907. — CHAPTER 238.

AN ACT RELATIVE TO THE DISPOSITION OF MONEY RECEIVED FOR
WATER FURNISHED OUTSIDE OF THE METROPOLITAN DISTRICT
BY THE METROPOLITAN WATER AND SEWERAGE BOARD.*Be it enacted, etc., as follows :*Disposition of
receipts from
cities and
towns outside
metropolitan
district.

SECTION 1. All sums of money which shall be paid into the treasury of the commonwealth by any city or town not belonging to the metropolitan water district, or by a water company in any such city or town, for water furnished under the provisions of section three of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five, and acts in amendment thereof, shall hereafter be applied by the treasurer and receiver general to the sinking fund established for the payment of bonds issued on account of the metropolitan water district.

SECT. 2. This act shall take effect upon its passage.

[Approved March 22, 1907.]

1907. — CHAPTER 349.

AN ACT RELATIVE TO SUPPLYING CERTAIN CITIES AND TOWNS
WITH WATER FROM THE METROPOLITAN WATER SYSTEM.*Be it enacted, etc., as follows :*St. 1896, c. 438,
§ 3, amended.

SECTION 1. Section three of chapter four hundred and eighty-eight of the acts of the year eighteen hundred and ninety-five, as amended by chapter three hundred and ninety-two of the acts of the year eighteen hundred and ninety-eight, and by chapter three hundred and forty-nine of the acts of the year eighteen hundred and ninety-nine, is hereby further amended by inserting after the word "and", in the twenty-seventh line, the words: — in case of fire or other emergency, — and by striking out the word "other", in the twenty-eighth line, — so as to read as follows: — *Section 3.* Said board, acting for the commonwealth, shall construct, maintain and operate a system of metropolitan water works substantially in accordance with the plans and recommendations of the state board of health, contained in their report to the legislature of the year eighteen hundred and ninety-five, and shall provide thereby a sufficient supply of pure water for the following named cities and towns, and the inhabitants thereof, to wit: — The cities of Boston, Chelsea, Everett, Malden, Medford, Newton and Somerville, and the towns of Belmont, Hyde Park, Melrose, Revere, Watertown and Winthrop, which cities and towns shall constitute the Metropolitan Water District; shall secure and protect the purity of said water; shall on application furnish water to any city or town aforesaid that at the time of application owns its water pipe.

Construction
of a system of
metropolitan
water works.

system; shall on application admit any other city or town, any part of which is within ten miles of the state house, into said water district, and furnish water to the same on the terms prescribed by this act for the cities and towns aforesaid, and on such payment of money as said board may determine; shall on application furnish water to any water company owning the water pipe system in any town within said ten miles, on such water company assuming the assessments of the town, if any, and making such payment of money as said board may determine; and in case of fire or other emergency may from time to time furnish water to any city, town or water company, on such payment of money as said board may determine: *provided*, that any such city or town last referred to shall first have acquired the works of any water company therein situated, constructed for the purpose of supplying said city or town or its inhabitants with water. All payments of money aforesaid shall be distributed to the cities and towns in said district in proportion to the total amount of the annual assessments theretofore paid by them respectively. Said board shall furnish said water to the city, town or company, by delivering the same into a main water pipe, reservoir or tank of the city, town or company, under sufficient pressure for use without local pumping, unless delivered in some other manner by mutual agreement between the parties interested; and shall have the direction and control of the connections between the metropolitan and local systems. Said board may utilize the fall of water at any dam under their charge, and may thereby produce power or electricity, and may transmit such power or electricity by pipes, wires or other suitable means, and sell the same, or the right to use such water, by written or other contract, to run for a term not exceeding fifteen years. Any person or corporation authorized by said board shall have all the powers relating to the production, sale and transmission of power and electricity given by this act to said board.

SECT. 2. This act shall take effect upon its passage.

[*Approved May 3, 1907.*]

1907.—CHAPTER 524.

AN ACT TO PREVENT WASTE OF WATER IN CITIES AND TOWNS SUPPLIED FROM THE SOURCES OR WORKS OF THE METROPOLITAN WATER DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. All cities, towns, districts or corporations which derive all or any part of their water supply from the metropolitan water works or from sources used by or under the control of the metropolitan water district shall after December thirty-first, nineteen hundred and seven, equip with water meters all water services thereafter installed for them, and shall

Equipment
with water
meters in
metropolitan
district.

also annually equip with water meters five per cent. of the water services which were unmetered on December thirty-first, nineteen hundred and seven; and shall also thereafter charge each consumer in proportion to the amount of water used: *provided*, that no city, town or district shall, in any one year, contract for more than the number of meters to be installed by it during that year under the provisions of this act; and *provided, also*, that a minimum rate may be fixed for which the consumer shall be entitled to a stated quantity of water.

Scope of act defined.

SECT. 2. The provisions of this act shall not apply to the water service for fire purposes only of any city, town, fire district or individual, nor shall such service be taken into consideration in computing metered water service. All water used for the supply of public buildings or other premises under the control of a city, town or district, and all water used from the public works for the flushing of sewers, watering of streets and all other purposes, except for the extinguishment of fires, may be paid for by the city, town or district.

Care and protection of meters.

SECT. 3. Meters shall receive the necessary care and maintenance to secure proper efficiency and shall be tested or replaced by the city, town, district or water company whenever there is reason to believe that the records furnished by them are inaccurate, or whenever the service furnished is in other respects inefficient. Cities, towns, districts and corporations may make rules and regulations relative to the care, maintenance and protection of meters, and for properly ascertaining and recording the amount of water actually used during specified periods by each water consumer. Proceedings for the enforcement of this act shall be instituted and prosecuted by the attorney-general upon complaint of any party in interest.

SECT. 4. This act shall take effect upon its passage.

[Approved June 15, 1907.]

1907. — CHAPTER 575.

AN ACT TO AUTHORIZE THE METROPOLITAN WATER AND SEWERAGE BOARD TO SELL CERTAIN PROPERTY FOR THE WIDENING OF A RAILROAD IN THE TOWN OF NATICK.

Be it enacted, etc., as follows:

Sale of property in Natick.

SECTION 1. The metropolitan water and sewerage board may, in its discretion sell, by public or private sale, any property of the commonwealth held and used for water supply purposes, situated in the town of Natick on both sides of and abutting on the Boston and Albany railroad, whether taken by the commonwealth by eminent domain or otherwise, if such property is deemed necessary for the alteration, relocation or widening of said railroad and is not deemed necessary by said board for other public purposes.

SECT. 2. This act shall take effect upon its passage.

[Approved June 28, 1907.]

1907. — RESOLVES — CHAPTER 2.

A RESOLVE TO AUTHORIZE THE TREASURER AND RECEIVER GENERAL TO BORROW MONEY IN ANTICIPATION OF ASSESSMENTS FOR THE METROPOLITAN DISTRICTS AND FOR ARMORIES.

Resolved, That, in anticipation of the assessments of the present year for the metropolitan districts and for armories, the treasurer and receiver general is hereby authorized to borrow at any time before December first, nineteen hundred and seven, such sums of money as may from time to time be necessary for the payment of the interest and maintenance charges of the metropolitan districts and of armories, at such rates of interest as shall be found necessary, and that he shall repay any sums borrowed under this resolve as soon after said assessments are paid as is expedient; and the treasurer and receiver general is hereby authorized to collect from the cities and towns of said metropolitan districts and armories proportionately, all interest that may be paid upon money borrowed under this resolve.

Borrowing money in anticipation of taxes.

[*Approved January 25, 1907.*]

IV. TRANSIT ACTS.

1894. — CHAPTER 548.

AN ACT TO INCORPORATE THE BOSTON ELEVATED RAILWAY COMPANY AND TO PROMOTE RAPID TRANSIT IN THE CITY OF BOSTON AND VICINITY.

Be it enacted, etc., as follows:

SECTION 1. Joe V. Meigs, Thomas W. Hyde, Willard Howland, Theodore W. Myers, Joseph H. O'Neil, Fred C. Patch, Charles A. Whittier, Abram S. Hewitt, Samuel M. Roosevelt, William S. Butler, George H. Towle, William Spalding and Herman Haupt, their associates and successors, are hereby made a corporation by the name of Boston Elevated Railway Company, subject to all general laws which now are or may hereafter be in force relating to railroad corporations, so far as applicable, except as hereinafter provided, but said corporation shall not transport freight or baggage.

Incorporation of Boston Elevated Railway Company. Partially repealed. St. 1897, c. 500, § 21. See St. 1897, c. 500, § 7.

SECT. 2. The capital stock of said corporation shall be not less than ten million dollars, divided into shares of one hundred dollars each. The capital may be increased from time to time, by vote of said corporation, to an amount not exceeding twenty million dollars in all.

Capital stock.

SECT. 3. Said corporation may issue coupon or registered bonds to an amount which, including that of bonds previously

Issue of bonds and limit thereof.

issued, shall not exceed in all the capital stock of the corporation actually paid in at the time. It may issue its bonds to provide means for construction and equipment, and for funding its floating debt, and for the purchase of such real or personal estate as may be necessary or convenient for the operation of its railway and in payment of any debt of said corporation.

Mortgage of franchise and property of corporation. Amended by St. 1897, 500, § 1.

SECT. 4. Said corporation may mortgage or pledge, as security for payment of its bonds, its franchise and any or all of its real or personal property, and property thereafter acquired by it.

Approval and certification of issue of stock and bonds.

SECT. 5. All issues of stock and bonds under the provisions of this act shall be subject to approval and certification by the board of railroad commissioners, in the manner provided in chapter four hundred and sixty-two of the acts of the year eighteen hundred and ninety-four, relative to the issue of stock and bonds by railroad and street railway companies.

Methods of construction. Amended by St. 1897, 500, §§ 2, 3.

SECT. 6. Said corporation may construct lines of elevated railway according to the plans or systems shown in the patents granted to Joe V. Meigs, or according to such other plans or systems, except the system now in use in New York, known as the Manhattan system, as the board of railroad commissioners may approve, upon the following locations, and may equip, maintain and operate engines and cars thereon, to wit:—

First. From a point on Main street, near Sullivan square in that part of Boston called Charlestown, through and over Main street, to and through City square, to and through Warren avenue, to and over any existing bridge or over a new bridge across Charles river, to and through Beverly street, to and through Haymarket square, to and through Union street, to and through Dock square, to and through a new street which shall be built by said city, of the width of eighty feet, and one half of the cost of which shall be paid by said corporation, in the line of Congress street, between State street and Dock square, to and through Congress street and Post Office square, to and through Federal street, to and over Federal street bridge or a new bridge across Fort Point channel, to and through Dorchester avenue to the Milton line.

(a.) A branch railway through Alford street, to and over Malden bridge, to and through Main street, Everett, to the Malden line.

(b.) A branch railway from Everett square, to and through Chelsea and Ferry streets to the Malden line.

(c.) A branch railway from the junction of Broadway and Main street, Everett, to and through Broadway to the Malden line.

(d.) A branch railway from said City square to and through Chelsea street, to and over Chelsea bridge or a new bridge across the Mystic river, to and through Broadway, Chelsea, to and through Broadway, Revere, to and through Central avenue, to and through Beach street to Crescent Beach.

(e.) A branch railway from Fenno's Corner, Revere, to and through Beach street, to and through Winthrop avenue to Beachmont.

(f.) A branch railway from Dorchester avenue to and through West Broadway, to and through Dorchester street, to and through East Second street to City Point at Marine Park. Also a branch railway from Dorchester avenue to Sixth street, thence to D street, D street to Eighth street, Eighth street to L street, L street to Sixth street to City Point and Marine Park.

(g.) A branch railway from Field's Corner through Neponset avenue to Neponset bridge.

Second. From a point on Bow street in Somerville, near its junction on Walnut street, through Bow street, to and through Union square, to and through Webster avenue, to and through Cambridge street, to and over Craigie Bridge or a new bridge across Charles river to a point on Charles street between Allen and Poplar streets in Boston, through Charles street, to and through Leverett street, to and through Brighton street, to and through Lowell street, to and through Causeway street, to and through Portland street, to and through Merrimac street, to and through Washington street, to and through Dock square, to and through Devonshire street, to and through Franklin street, to and through Arch street, to and through Chauncy street, to and through Harrison avenue, to and through Kneeland street, to and through Washington street to its junction with Hyde Park avenue.

(h.) A branch railway from the junction of Washington and Warren streets, through Warren street, to and through Dudley street, to and through Blue Hill avenue to Vaughan street.

Third. From a point in Brattle square in Cambridge, through Brattle square, to and through Mount Auburn street, to and through Putnam square and Putnam avenue, to and through Green street, to and through Western avenue or Central square, to and through Main street, to and over West Boston bridge, or a new bridge, or from a convenient point of deflection on Main street to and over a new bridge across the Charles river, to and through Charles street in Boston, to and through Park square, to and through Pleasant street, to and through Tremont street, to and through Pyncheon street, to and through Centre street to the corner of May street.

(i.) A branch railway from Park square to and through Columbus avenue, to and over the location of the Boston and Albany railroad, with the consent of the directors of the Boston and Albany Railroad Company at a height of not less than twenty feet above the road bed of said railroad, or by some other convenient route or way, to and through Huntington avenue, to and through Tremont street, to and through Washington street in Brookline to Village lane.

(j.) A branch railway from a point near the junction of River and Main streets in Cambridge, through River street, to and over Cambridge street bridge or a new bridge across Charles

river, to Cambridge street in that part of Boston called Brighton, to and through Cambridge street in said Brighton, to and through Washington street to Oak square.

(k.) A branch railway from Charles street, to and through Cambridge street, to and through Bowdoin square, to and through Court street, to and through Brattle street to Dock square.

(l.) A branch railway from Park square to and through Eliot street to Kneeland street.

Approval of
locations.

SECT. 7. Said corporation shall not do any work in any city or town until the streets through which its railway shall be laid in such city or town shall be approved by the mayor and aldermen of the city or the selectmen of the town, and shall not do any work on any new bridge aforesaid until the location thereof and the plans therefor shall be approved by the board of harbor and land commissioners, and said corporation may vary or alter the locations aforesaid within the limits of a city or town, with the approval of the mayor and aldermen of the city or the selectmen of the town, and may construct such branches, spurs, sidings, turnouts, connections, deflections, switches, extensions and loops in connection with any of its locations as may be authorized by the board of railroad commissioners.

Locations, etc.,
to be deemed
an additional
servitude.
Damages.
Application
extended by
St. 1902, c. 534,
§ 11.
183 Mass. 178.
187 Mass. 328.
188 Mass. 406,
414.
191 Mass. 223,
513.

SECT. 8. The location, construction, maintenance or operation of said lines of railway in any public or private way shall be deemed an additional servitude and entitle lessees, mortgagees and other parties having an estate in such way or in premises which abut thereon, and who are damaged by reason of the location, construction, maintenance and operation of said lines of railway, to recover reasonable compensation in the manner herein provided. Any such person may at any time within three years after the construction of such railway upon or in front of his premises, file in the clerk's office of the superior court for the county where his said premises lie, a petition setting forth his claim and the amount thereof against said corporation. He shall give to said corporation fourteen days' notice of the filing of such petition, and answer thereto shall be filed by said corporation within thirty days after the return day of such notice.

Ascertainment
of damages.

Application
extended by
St. 1902, c. 534,
§ 11.
183 Mass. 178,
180.
191 Mass. 223,
513.

SECT. 9. Any such petition shall be heard before a jury, if either party claims such right at the time of the filing of the petition or within ten days after the filing of the answer thereto; otherwise the same shall be heard before the court without a jury. The finding shall be on the following questions, to wit: First. Has the petitioner's estate been damaged more than it has been benefited or improved in value by reason of the location, construction, maintenance or operation of such railway? Second. If so, how much? If the answer to the first question shall be "No", a verdict shall be rendered for the corporation; otherwise a verdict shall be rendered for the petitioner for the amount found in answer to said second question, including interest from the day of the filing of the petition.

SECT. 10. Said corporation may locate stations at convenient points, with suitable exits and approaches to and from the streets and stations; but the same, except platforms and approaches thereto from buildings, shall not be located in any public way sixty feet or less in width, nor shall the same be located in any other public way or place unless approved by the mayor and aldermen or selectmen.

Location and construction of stations.

SECT. 11. Said corporation may lease, purchase or otherwise take the fee of land, outside of limits of public ways, parks and other public lands, for the purpose of constructing its railway, buildings, shops, stations, engine and car houses, and for any purpose necessary for the construction or convenient use by said corporation or the public of its said railway, and for such purposes may take any private property in the manner in which land may be taken for the construction of railroads as set forth in sections ninety-five, ninety-six and ninety-seven of chapter one hundred and twelve of the Public Statutes. Said corporation shall pay all damages occasioned by the taking of such land or private property in accordance with the provisions of this section, and such damages on the application of either party shall be estimated and determined in the manner provided in reference to the assessment of damages occasioned by the laying out of highways.

Taking of land for buildings, shops, etc.

Application extended by St. 1902, c. 534, § 11.
174 Mass. 99.
183 Mass. 178,
182.
191 Mass. 513,
530.

SECT. 12. Said corporation shall, upon the entry of judgment pursuant to findings upon the foregoing provisions of section nine, pay or tender to the judgment creditor the amount of such judgment with costs. If such payment or tender shall not be made within thirty days after the entry of such judgment, the court in which the same has been so entered shall issue its execution to compel the payment thereof.

Payment or tender of amount of judgment. Execution therefor. Application extended by St. 1902, c. 534, § 11.

SECT. 13. Said corporation before it shall begin the construction of any line of railway under this act shall deposit with the treasurer of the commonwealth two hundred thousand dollars in cash or securities satisfactory to said treasurer, which, together with the three hundred thousand dollars required by the provisions of section nineteen of this act, shall be in the hands of said treasurer a fund out of which any execution issued pursuant to the provisions of the preceding section shall be paid by said treasurer. When said fund shall have been reduced to three hundred thousand dollars the said treasurer shall notify said corporation of the amount then in said fund, and said corporation shall within ten days thereafter pay to said treasurer such sum as shall restore said sum to the amount of five hundred thousand dollars.

Deposit to secure satisfaction of executions.

SECT. 14. The supreme judicial court may at any time, on application of said corporation, when it shall satisfy said court that there is no longer occasion for said fund for the purposes of this act, order the said treasurer to pay the same to said corporation or its assigns.

Repayment of deposit to corporation.

SECT. 15. Whenever said corporation shall make any excavations in or near any public highway, or shall set any founda-

Restoration of surface of streets, etc.

Strengthening
of bridges.
Application
extended by
St. 1902, c. 534,
§ 11.

tion, pier or post in or near the same, the surface of the street, sidewalk or other ground shall be restored as soon as practicable to the condition, as near as may be, in which it was before the excavation was made; and any interference which shall be made with or change in water or gas mains or pipes, sewers, drains or other subterranean works shall be upon condition that the same shall be immediately restored to a serviceable condition, as good as before such change or interference, and at the sole cost and expense of said corporation. The said corporation shall, at its own expense, strengthen any bridge over which its railway shall pass, in such manner as the board of railroad commissioners shall determine.

Taxes, fares
and transfers.
Repealed by
St. 1897, c. 500,
§ 22.

SECT. 16. R. Said corporation shall be annually assessed, and shall pay taxes in the same manner as though it were a street railway company. Said corporation may establish for its sole benefit a toll or fare which shall not exceed upon the routes fixed by the provisions of this act the sum of five cents for a single passage between the termini of said routes, and this sum shall not be reduced by the legislature during a period of twenty years from the passage of this act. And transfer checks shall be issued or transfers made on demand, without additional payment, which shall entitle a passenger to a continuous ride from any station to any other station on the system.

Lease, purchase or operation of tributary lines.
Amended by
St. 1897, c. 500,
§ 11.

SECT. 17. S. Said corporation may lease, purchase, own and operate any lines of street or elevated railway which may be or become tributary to its lines, and enjoy all the rights and privileges enjoyed by those owning or operating such street or elevated railways, but no such lease or purchase shall be made or shall be valid if made, unless the railroad commissioners shall first decide that the public interests would not be thereby injuriously affected. Any such lease or purchase shall be subject to the provisions of an act of the current year entitled "An act relating to leases and consolidations of railroad and street railway companies."

Certification of
safety.
Appeal from
railroad com-
missioners.
192 Mass. 308,
313.

SECT. 18. When said elevated railway has been constructed or any portion thereof, but before the same shall be opened for public use, it shall, upon application of said corporation, be examined by the board of railroad commissioners, and if it appears to be in a safe condition for operation then said board shall give a certificate to said corporation to that effect, which certificate shall be filed in the office of the secretary of the commonwealth, and thereupon said corporation shall be authorized to operate said railway. Said corporation may at any time appeal from any decision of the board of railroad commissioners upon any question to the superior court, where issues of fact shall be framed, and tried before a jury if either party claims such right. Said court shall enter such judgment or decree in the premises as justice shall require, and shall have power to enforce the same by appropriate process.

Deposit to
secure con-
struction.

SECT. 19. R. Said corporation shall, on or before the expiration of six months from the date of the acceptance of this act,

as provided in section forty of this act, apply for a route of not less than five miles of track in the city of Boston and shall, on or before the first day of February in the year eighteen hundred and ninety-five, or within thirty days after the approval of such route by the mayor and aldermen, if such approval is not made until after the first day of January of said year, deposit with the treasurer of the commonwealth the sum of three hundred thousand dollars in cash or securities satisfactory to said treasurer, and the same or such portion of the sum remaining after the payment of all executions under the provisions of section thirteen of this act shall be forfeited to the commonwealth if said corporation shall negligently fail to construct at least five miles of its railway on such route so approved within two years from the date of the approval of such route as provided in this act.

Repealed by
St. 1897, c. 500,
§ 22.

SECT. 20. S. The supreme judicial court and any justice thereof, and the superior court and any justice thereof, shall have jurisdiction in equity, on petition of any party interested, to compel compliance with the provisions of this act, and to enforce any order made under the authority of this act, and to prevent violations of any of the provisions hereof; and if it shall be found, on complaint of any city or town in which said corporation is authorized by this act to build a railway, or any party interested, that said corporation has negligently failed to comply with the provisions of this act, said court may order the removal of the structure or pass such other order or decree as it may deem proper in the premises, and may declare its charter forfeited and dissolve the corporation: *provided, however*, that no petition in equity shall be filed for damages for which an action is given by this act until payment thereof has been refused on execution issued as provided in section twelve.

Enforcement
of act.

Amended by
St. 1897, c. 500,
§ 16.
180 Mass. 516.
192 Mass. 308,
516.

SECT. 21. R. On and after the first day of January in the year nineteen hundred and seven such franchise tax of not less than one per cent. nor more than five per cent. of the gross earnings of said corporation, as the board of approval [appeal] provided for in section sixty-two of chapter thirteen of the Public Statutes shall annually determine, shall be imposed upon said corporation. Said tax shall be paid into the treasury of the commonwealth and distributed to the different cities and towns in proportion to the mileage of said railway in operation therein.

Franchise tax.

Repealed by
St. 1897, c. 500,
§ 22.

SECT. 22. Nothing in this act contained shall be construed to permit the occupation of any other part of Boston Common for any of the purposes named in this act, or of Washington street between Dock square and Eliot street or of Tremont street between Scollay square and Eliot street, or of Copley square in the city of Boston, except as specifically mentioned in this act. Nothing herein contained shall authorize, except by purchase, the taking of land of any railroad company.

Occupation of
certain places
by company
forbidden.

SECT. 23. The governor shall appoint, with the advice and consent of the executive council, two discreet persons, who, together with the commissioners appointed under the provisions

Boston transit
commission.

of chapter four hundred and seventy-eight of the acts of the year eighteen hundred and ninety-three, shall constitute a board to be known as the Boston Transit Commission, and shall hold office for the term of five years from the date of the passage of this act. Any vacancy in said commission shall be filled by the mayor of said city, subject to the approval of the board of aldermen, as in the case of officers in charge of the departments in said city, or by the governor of the commonwealth, with the advice and consent of the executive council, according as said vacancy occurs among the members originally appointed by the mayor of said city or by the governor, respectively. Each of said commissioners shall receive an annual salary of five thousand dollars or such other sum as the city council shall by ordinance provide.

Term extended.
St. 1899, c. 375.
St. 1902, c. 534,
§ 17.
St. 1906, c. 313.

Organization
of commission;
employees.
Annual report.

SECT. 24. Said commission shall organize by the choice of a chairman, and may from time to time choose a secretary and such engineers, clerks, agents, officers, assistants and other employees, not of their number, as it may deem necessary; may determine the duties and compensation of such employees, and may remove the same at pleasure; shall at all times keep accurate accounts of all expenditures made under this act, and shall make an annual report of its doings, containing an abstract of said accounts, to the city council of Boston.

Construction
of subway for
four tracks.
186 Mass. 347.
174 Mass. 150,
154.
176 Mass. 9.

SECT. 25. Said commission may construct in the city of Boston a subway or subways of sufficient size for four railway tracks, with approaches, entrances, sidings, stations and connections therefor, and for the running of railway cars thereon, through and under Tremont street and the adjoining mall of Boston Common, or other public or private lands adjoining or near said street, from a point or points within one thousand feet of the junction of Tremont street and Shawmut avenue to, through, and under Scollay square; thence through and under Hanover street and Washington street, Cornhill, Brattle and Washington streets or other streets, or public or private lands, to a point or points on Washington street, or between Scollay square and Causeway street. Said commission may discontinue as public ways Travers street between Canal street and Haverhill street, and such streets or portions of streets between Eliot street and the Boston and Albany railroad as it may deem necessary for said subways or for entrances, approaches or inclines thereto.

East Boston
tunnel.
See St. 1897,
c. 500, § 17.
St. 1903, c. 114.
174 Mass. 150,
154.
176 Mass. 9, 14.

SECT. 26. Said commission may construct a tunnel or tunnels of sufficient size for two railway tracks, with approaches, entrances, sidings, stations and connections therefor, and for the running of railway cars therein, from a point on or near Scollay square in the city of Boston, where a suitable connection may be made with the subway or subways provided for by this act, to a point on or near Maverick square, in that part of Boston called East Boston, where a suitable connection with surface tracks may be made.

Additional
subways.
174 Mass. 150,
155.

SECT. 27. Said commission may also construct subways, to be used for the same purposes as said other subways, but which

may be made of sufficient width for two tracks only, as follows : from Tremont street through and under Boylston street and the adjoining mall of Boston Common, or other public or private lands adjoining said street, to a point on or near Boylston street where a suitable connection with surface tracks may be made; from Boylston street through and under Park square and Columbus avenue, or other lands adjoining said square and avenue, to a point on or near Columbus avenue, where a suitable connection with surface tracks may be made, and from Tremont street through and under Park street and the adjoining mall of Boston Common, Temple street, and Staniford street, or other public or private lands adjoining said streets, to a point on or near Staniford street or Merrimac square, where a suitable connection with surface tracks may be made.

SECT. 28. Said commission shall not begin the work of constructing any of said subways until it has filed in the office of the city surveyor of said city a plan signed by said commission showing the route or location of the part of a subway which it proposes to construct. Any such plan so filed may be altered at any time by a new plan signed and filed in like manner.

Filing of plan preliminary to construction.

SECT. 29. Said commission may locate and construct said subways, tunnels, approaches, tracks, sidings, stations, entrances and connections, where it deems best within the limits aforesaid, and may place the entrances to the portions of said subways and tunnels intended for one railway, at points along the aforesaid routes distinct and different from the entrances to the portions intended for another railway, but shall not permanently occupy above the surface of the ground for any purpose any part of said common except so much of the Tremont and Boylston street malls as may be necessary for stairways to stations and coverings therefor; shall not between Boylston street and Park street, occupy or disturb any part of the surface of Tremont street east of the westerly track of the West End Street Railway Company as at present located; and shall so conduct the work of construction that all streets and places under or near which a subway is constructed shall be open for traffic between eight o'clock in the forenoon and six o'clock in the afternoon.

Methods and requirements of construction.
166 Mass. 347.
174 Mass. 150,
155.

SECT. 30. Said commission shall construct a bridge over Charles river, having regard to its use for railway purposes, between the present Charles river bridge and the Fitchburg railroad bridge; and may, in its discretion, reconstruct Warren bridge with a width not exceeding one hundred feet; and shall make the draws in said bridge so built or reconstructed of such width as the board of harbor and land commissioners shall approve; and no compensation shall be required for occupation of lands of the commonwealth, or displacement of tide water, but in all other respects the provisions of chapter nineteen of the Public Statutes and acts in amendment thereof or in addition thereto shall apply to such building or reconstruction. Said commission may make approaches to said bridges not exceeding

Charlestown bridge.
Reconstruction of Warren bridge.

one hundred feet in width, and may discontinue the present Charles river bridge; and after such discontinuance the approaches thereto shall be kept open for landing places or other public uses.

Taking of
land and ease-
ments by com-
mission.
181 Mass. 233,
235.
184 Mass. 586.

SECT. 31. Said commission may, for the purposes of this act, which it is required or authorized to carry out, use public ways and lands subject to the limitations herein contained; may take for the city of Boston, by purchase or otherwise in fee, any part or the whole of the property bounded by Haymarket square, Canal, Causeway and Haverhill streets, and any other lands, including the buildings thereon, which said commission may deem necessary for said purposes; may take for said city, by purchase or otherwise, easements or estates or rights in lands, including the right to go under the surface thereof or through or under buildings or parts of buildings thereon; and any such taking in fee or otherwise may be made whether the lands taken or otherwise affected are held under or by title derived under eminent domain, or otherwise. A taking under this section of an easement or other estate or right in a given parcel of real estate, whether such parcel consists of unimproved land or of land and buildings, may be confined to a portion or section of such parcel fixed by horizontal planes of division, below or above, or at the surface of the soil, and in such case no taking need be made of upper or lower portions or sections except of such easements therein as said commission may deem necessary.

Record of
taking.

SECT. 32. Said commission, to make any taking by right of eminent domain, shall cause to be recorded in the registry of deeds for the county of Suffolk a description of the lands, easements, estates or rights to be taken, as certain as is required in a common conveyance of land, with a statement that the same are taken under the authority of this act, which description and statement shall be signed by said commission, and the lands, easements, estates or rights described in said description shall upon such recording be taken for, and shall vest in, said city.

Removal of
buildings.
Entry upon
land.

SECT. 33. Said commission may remove the buildings from any and all lands taken by it, and may sell or lease for improvement or otherwise any part of, or estate or interest in, any lands or rights so taken, whenever the same shall in the opinion of said commission cease to be required for the purposes of this act. And any person or corporation acting under authority of this act may enter into and upon any lands, and make surveys and examinations and place and maintain marks therein, and may do all other acts thereon incidental to such surveys, examinations, and placing and maintaining marks.

Damages for
land taken by
commission.

Amended by
St. 1895, c. 440,
§ 1.
180 Mass. 516.

SECT. 34. S. Said commission shall determine all damages sustained by any person whose property is injured by it under authority of section twenty-seven, or is taken by it, and if any such person cannot agree with said commission as to the damages so sustained, such damages may be determined by a jury in the superior court for the county of Suffolk, on petition

therefor of said commission or of said person against said city, filed in the clerk's office of said court within one year after such taking, or the property is so injured, and judgment shall be entered upon the determination of such jury, and costs shall be taxed and execution issued in favor of the prevailing party as in civil cases.

SECT. 35. S. Said commission may, on or before the completion of said subways and tunnels, grant locations for tracks to, and for two tracks in, said subways and tunnels, to be used by any street railway company or companies; shall order all surface tracks to be removed from Tremont street between Boylston street and Scollay square, and from Boylston street between Park square and Tremont street; and may order any other tracks which, in its opinion, have been rendered unnecessary by the construction of said subways and tunnels, and which are above said subways and tunnels, or within a distance of one thousand feet from any entrance to said subways and tunnels, to be removed from the streets. Said commission shall, subject to the approval of the board of railroad commissioners, fix by contract the terms and conditions and rates of compensation for the locations for said two tracks in any of said subways and tunnels, and for the use thereof by any street railway company or companies during a term of years not exceeding fifty. Surface tracks shall not be laid or maintained in that part of any street from which said commission may have ordered such tracks removed, as herein provided.

Location of two tracks in subways. Removal of surface tracks. Contracts for use of subway and tunnels.

Amended by St. 1896, c. 462. 174 Mass. 150, 155.

SECT. 36. Said commission may order the temporary removal or relocation of any surface tracks in or on any land or way through or under or near which any subway, tunnel or railway aforesaid is to be built, also the removal or relocation of any conduits, pipes, wires or poles of any person or corporation, which it deems to interfere with the construction or operation of any such subway, tunnel or railway, and the person or corporation owning such tracks, wires or other property shall comply with said orders. Any person or corporation using or authorized by law to use wires along the route of any such subway or tunnel may place them therein in such manner and on such terms as said commission may approve. Said commission shall also designate locations in or adjoining said subways and tunnels for sewers, gas pipes, water pipes, conduits and electric wires; and may fix the terms and conditions and rates of compensation to be paid for such locations and the use thereof.

Temporary removal of surface tracks. 180 Mass. 516.

SECT. 37. The treasurer of the city of Boston shall from time to time, on the request of said commission, issue and sell at public or private sale, bonds, registered or with interest coupon attached, as he may deem best, in the name and behalf of said city, to an amount not exceeding seven millions of dollars, and such further amount for said Charlestown bridge and its approaches, in addition to the seven hundred and fifty thousand dollars heretofore appropriated therefor by the city council of said city, as may be necessary for the completion of said bridge

Rapid Transit Loan. 166 Mass. 347.

and approaches. Said bonds, including said seven hundred and fifty thousand dollars, shall be designated on their face, Rapid Transit Loan, shall be for the term of forty years, and at rates of interest not exceeding four per cent. per annum, as said treasurer shall determine, payable semi-annually. The debt incurred under the provisions of this section, except the seven hundred and fifty thousand dollars aforesaid, shall not be included in determining the limit of indebtedness of said city. The proceeds of said bonds shall be used to meet all damages, costs, and expenses incurred in carrying out the provisions of this act by said commission and all expenses heretofore incurred for the purposes specified in chapter four hundred and seventy-eight of the acts of eighteen hundred and ninety-three.

Sinking fund.
176 Mass. 9, 15.

SECT. 38. The board of commissioners of sinking funds for the city of Boston shall establish a sinking fund for the payment of the bonds issued under this act. All premiums received from the sale of said bonds, all moneys or securities deposited with the treasurer of said city under the provisions of this act and forfeited to said city, and all proceeds from any sale of lands or rights taken under authority of this act, shall be paid into said sinking fund. All rents, percentages, or other annual compensation received from any person or corporation for any use of any of said subways, tunnels or adjacent locations or for any use of any lands or rights taken under authority of this act shall be annually used by the said treasurer, first, to meet any deficiency in the sinking fund requirements for said bonds, after the payments hereinbefore provided for have been made; second, to meet the interest on said bonds, and the surplus, if any, as a part of the general revenue of said city for the maintenance of its public parks.

Taking of land
from junction
of Tremont
street and
Shawmut
avenue to
Franklin park.

SECT. 39. Said commission may take in fee, by purchase, or otherwise, a strip of land from the southern entrance of said subway, at or near the junction of Tremont street and Shawmut avenue, to Franklin park in said city. Said strip shall be taken in and along and across public ways or lands, or through private property, and shall not be less than twenty-five feet nor more than thirty-five feet in width. Said strip of land from Pleasant street to Dudley street shall be taken between Tremont and Washington streets; and from Dudley street to Franklin park between Warren street and Blue Hill avenue. Said commission may also take in fee, by purchase, or otherwise, a strip of land not less than twenty-five nor more than thirty-five feet in width, from the said entrance to said subway on or near Columbus avenue to a point on said first mentioned strip of land. Said strip or strips of land shall be used for an elevated railway, and for such other public purposes as said commission shall determine.

Date of taking
effect.
Acceptance of
act.
166 Mass. 347,
357.

SECT. 40. This act shall take effect upon its passage; but said railroad corporation shall not do any work in any public way or place, or take any land under the right of eminent domain, nor shall said Boston Transit Commission take any land

or commence the construction of any subway or tunnel until this act shall be accepted by a majority of the voters of said city voting at some special election called by the mayor of said city or at some state or municipal election designated by said mayor, such election to be held during the year eighteen hundred and ninety-four.¹

[Approved July 2, 1894.]

1895. — CHAPTER 440.

AN ACT RELATIVE TO THE CONSTRUCTION OF SUBWAYS IN THE CITY OF BOSTON.

Be it enacted, etc., as follows:

SECTION 1. Section thirty-four of chapter five hundred and forty-eight of the acts of the year eighteen hundred and ninety-four is hereby amended by striking out in the first, second, third and fourth lines, the words "Said commission shall determine all damages sustained by any person whose property is injured by it under authority of section twenty-seven, or is taken by it", and inserting in place thereof the words:— Said commission may agree with any person as to the amount to be paid, as damages sustained by him, for any property taken, or injured, by said commission under authority of this act or of any act in amendment hereof, — so as to read as follows:— *Section 34.* Said commission may agree with any person as to the amount to be paid, as damages sustained by him, for any property taken, or injured, by said commission under authority of this act or of any act in amendment hereof, and if any such person cannot agree with said commission as to the damages so sustained, such damages may be determined by a jury in the superior court for the county of Suffolk, on petition therefor of said commission or of said person against said city, filed in the clerk's office of said court within one year after such taking, or the property is so injured, and judgment shall be entered upon the determination of such jury, and costs shall be taxed and execution issued in favor of the prevailing party as in civil cases.

St. 1894, c. 548,
§ 34, amended.

Construction
of subways;
damages, how
determined.
180 Mass. 516.
184 Mass. 586.

SECT. 2. Nothing contained in said act shall be construed as preventing the said commission from constructing subways for less than four railway tracks in any portion of the routes defined in the act where said commission deems that the construction of a subway or subways for four tracks is unnecessary or inexpedient; but said commission is authorized to make suitable provisions for the future enlargement of any subway or subways so as to accommodate four tracks in any portion of said routes, and to make such enlargement when said commission deems it expedient so to do.

Construction
for less than
four tracks in
certain cases,
etc.
1894, 548, §§ 25,
27.

SECT. 3. No portion of the Common, with the exception of the malls on Boylston and Tremont streets, shall be permanently

Extent of occu-
pation of the
Common.
See St. 1894,
c. 548, §§ 25, 27,
29.
186 Mass. 347.

¹Accepted July 24, 1894.

occupied above the surface of the ground for any of the purposes of the subway except so far as necessary for the suitable ventilation thereof, and no portion of said malls shall be permanently occupied above the surface of the ground except so far as necessary for suitable ventilation, and for shelter and other accommodations at the station entrances and exits. In constructing the subway under the Common said commission shall not be limited to the line of the malls, provided that additional space is necessary or expedient in order to secure suitable curves and stations for the subway, and a suitable loop for turning cars, nor shall said commission be prohibited from disturbing the surface of Tremont street east of the westerly track of the West End street railway except between Winter street and a point one hundred and fifty feet northerly of Boylston street. In no case shall the subway extend under the Common more than sixty feet beyond the present limit of said malls.

Disposition of
proceeds from
sales of lands,
etc.
See St. 1894,
c. 548, § 38.

SECT. 4. In order that the debt created for the construction of said subways may be limited as nearly as possible to the net cost thereof, the proceeds from any sales of lands or rights therein taken by purchase or otherwise under the authority of said act or any acts in amendment thereof made before the expiration of two years from the date of the completion of the construction of the subway may be credited to the subway account instead of being paid into the sinking fund.

Widening of
Haverhill and
Canal streets.
See St. 1894,
c. 548, § 31.

SECT. 5. The board of street commissioners of the city of Boston, with the approval of the mayor and of the Boston transit commission, may, for the purpose of widening Haverhill and Canal streets, take or lay out any portion of the land taken by purchase or otherwise, by the said Boston transit commission; and so far as the widening of said Haverhill and Canal streets is not rendered necessary in consequence of the construction of the subway, the value of the real estate so taken or laid out by said board, as determined by agreement between said board and said transit commission, shall be considered as expended for street widenings, and not as part of the cost of building the subways.

Construction,
equipment and
location of
tracks, etc.
176 Mass. 9, 15.

SECT. 6. Said commission may, if it deems expedient, construct any portion or the whole of the tracks in said subway or subways, and may electrically or otherwise, equip the same, and may in the name of the city of Boston, and subject to the approval of the board of railroad commissioners, enter into contracts with any surface or elevated railway company or companies, which shall be binding upon the contracting company or companies and upon the city and its officers and boards, for locations for tracks and other rights in any part or all of said subway or subways, on such terms and conditions, and containing such stipulations and provisions for the security of said city of Boston, the commonwealth, and all other parties, including such contracting company or companies, as to said commission or a majority thereof shall seem just and reasonable.

SECT. 7. The interest on the debt incurred for the construction of the subway or any part thereof shall be considered as part of the cost of the construction until such subway or part thereof, is open for use.

Interest to be considered as part of cost. See St. 1894, c. 548, § 37.

[Approved June 1, 1895.]

1896.—CHAPTER 492.

AN ACT RELATIVE TO THE CONSTRUCTION OF SUBWAYS IN THE CITY OF BOSTON.

Be it enacted, etc., as follows :

Section thirty-five of chapter five hundred and forty eight of the acts of the year eighteen hundred and ninety-four is hereby amended by striking out in the nineteenth line, the word "fifty", and inserting in place thereof the word:—twenty,—so as to read as follows:—*Section 35.* Said commission may, on or before the completion of said subways and tunnels, grant locations for tracks to, and for two tracks in, said subways and tunnels, to be used by any street railway company or companies; shall order all surface tracks to be removed from Tremont street between Boylston street and Scollay square, and from Boylston street between Park square and Tremont street; and may order any other tracks which, in its opinion, have been rendered unnecessary by the construction of said subways and tunnels, and which are above said subways and tunnels, or within a distance of one thousand feet from any entrance to said subways and tunnels, to be removed from the streets. Said commission shall, subject to the approval of the board of railroad commissioners, fix by contract the terms and conditions and rates of compensation for the locations for said two tracks in any of said subways and tunnels, and for the use thereof by any street railway company or companies during a term of years not exceeding twenty. Surface tracks shall not be laid or maintained in that part of any street from which said commission may have ordered such tracks removed, as herein provided.

St. 1894, c. 548, § 35, amended,

Location of two tracks in subways. Removal of surface tracks. Contracts for use of subways and tunnels. 176 Mass. 9, 15.

[Approved June 5, 1896.]

1897.—CHAPTER 347.

AN ACT RELATIVE TO THE BOSTON TRANSIT COMMISSION.

Be it enacted, etc., as follows :

SECTION 1. The Boston transit commission may transfer to the city of Boston, to be used for a market or other public purposes, so much of the land taken by it between Haverhill and Canal streets as said commission and the mayor of said city may agree upon.

Transfer to city of Boston of land between Haverhill and Canal streets.

Issue of bonds
to amount of
value of land
transferred.
Modified by
St. 1905, c. 187.

SECT. 2. In order that the debt created for the construction of the subways by said commission may be limited as nearly as possible to the net cost thereof the treasurer of said city shall from time to time on the request of said commission, approved by the mayor, issue bonds of said city, which shall not be considered in determining the debt limit, to the amount determined by said commission, with the approval of the mayor, to be the value of the real estate transferred to said city as hereinbefore provided, and shall sell the same and hold the proceeds thereof for the construction of said subway; and the seven million dollars authorized for constructing said subways shall be reduced by the amount so issued.

SECT. 3. This act shall take effect upon its passage.

[Approved May 6, 1897.]

1897. — CHAPTER 500.

AN ACT TO PROMOTE RAPID TRANSIT IN THE CITY OF BOSTON AND VICINITY.

Be it enacted, etc., as follows:

St. 1894, c. 548,
§ 4, amended.

Mortgage of
franchise and
property of
corporation.

SECTION 1. Section four of chapter five hundred and forty-eight of the acts of the year eighteen hundred and ninety-four is hereby amended by striking out the whole of said section and inserting in place thereof the following: — *Section 4.* Said corporation may mortgage or pledge to any corporation organized under the laws of the commonwealth, as security for the payment of its bonds, its franchises and any or all of its real or personal property and property thereafter acquired by it, including its interest in any elevated or surface railways, under or by virtue of any lease or operating contract.

St. 1894, c. 548,
§ 6, amended.

Methods of
construction of
elevated rail-
way.
192 Mass. 308,
§ 18.

SECT. 2. The first paragraph of section six of said chapter five hundred and forty-eight is hereby amended so as to read as follows: — *Section 6.* Said corporation may construct lines of elevated railway according to such plans or systems as the board of railroad commissioners may approve, to be operated by electricity or other motive power except steam, upon the following locations, and may equip, maintain and operate engines, motors and cars thereon, to wit: —

Locations of
elevated rail-
way.

SECT. 3. Section six of said chapter five hundred and forty-eight is hereby further amended by striking out in the seventieth line of said section the words “in Brattle square in Cambridge”, and inserting in place thereof the words: — on Murray street near Charles river in Cambridge to and, — by striking out in the seventy-third and seventy-fourth lines of said section the words “to and through Western avenue or Central square”, and inserting in place thereof the words: — thence over and through private land at a point at or near the junction of Massachusetts avenue and Main street to and through Lafayette square, — and by adding at the end of said section the following: —

Fourth. Commencing at a point near the corner of Washington and Castle streets; then upon and over Castle street to a point at or near its intersection with Village street; thence over and across the location, lands and tracks of the Boston and Albany Railroad Company, at a height of not less than twenty feet above said tracks, to Corning street; thence across Corning street to private lands between Porter and Kirkland streets; and thence over, upon and under said private lands by an incline, open cut and subway under Pleasant street, to the subway now constructed or in process of construction by the Boston transit commission; thence from the northerly terminus of said subway by an open cut, incline and elevated structure upon and over land acquired by the Boston transit commission, and Canal street to Causeway street; thence upon and over Causeway street to a new bridge now being built by said transit commission, under the provisions of chapter five hundred and forty-eight; thence upon and over said new bridge to and through City square, Main street, Essex street and Rutherford avenue to Sullivan square, in that part of Boston known as Charlestown.

Fifth. Commencing at a point on Washington street at or near Fay street; thence upon and over private lands, and crossing Dover street, Shawmut avenue, Hingham, Middlesex, Emerald, Compton, Lucas, Paul and Castle streets to lands occupied by the Boston and Albany Railroad Company; thence over and across the location, lands and tracks of said company, at a height not less than twenty feet above said tracks, to Corning street; thence across Corning street to private lands between Porter and Kirkland streets; and thence over, upon and under said private lands, by an incline, open cut and subway under Pleasant street to the subway aforesaid.

Sixth. Commencing at a point at or near the junction of Washington and Dudley streets, thence upon and over that part of Dudley street between Washington and Warren streets, and upon and over that part of Zeigler street between Washington and Warren streets; also from Dudley street, upon and over Guild row and Roxbury street, to Washington street.

Seventh. Commencing at a point at or near the corner of Washington and Castle streets; thence upon and over private lands to Motte street or Orange lane; thence upon and over Motte street to Orange lane in part, and in part upon and over private lands, to Harrison avenue; thence upon and over Harrison avenue to Beach street; thence upon and over Beach street to Cove street; thence upon and over Cove street to Federal street or upon and over the new street to be constructed by the city of Boston, to Atlantic avenue; thence upon and over Atlantic avenue, Commercial street and Causeway street to the said new bridge now in process of construction by said transit commission, and to Merrimac street.

Eighth. Commencing at the corner of Harrison avenue and Beach street, upon and over Harrison avenue to Essex street; and thence upon and over Essex street to Cove street.

Ninth. Commencing at or near the corner of Motte street and Harrison avenue; thence upon and over Way street, Broadway extension and upon and over the existing bridge or a new bridge to be built across Fort Point channel to West Broadway, in that part of Boston known as South Boston.

Said corporation may also construct such loop lines in connection with the locations herein granted, upon and over such streets or ways as may be necessary or convenient to turn its trains or reverse the direction thereof.

Restrictions as to lands upon which structures may be placed.

SECT. 4. Within the locations granted by paragraphs fourth and fifth of section three of this act no structure shall be placed upon or in the land or locations of the Boston and Albany Railroad Company, or upon or in the land authorized to be taken or acquired by the Boston and Providence Railroad Corporation under chapter five hundred and sixteen of the acts of the year eighteen hundred and ninety-six, entitled "An Act to provide for a union station for passengers on railroads entering the southerly part of the city of Boston"; and no land shall be taken or location built upon within the limits of land authorized to be taken or acquired by said last named corporation, under said chapter, without the consent of the directors of the Boston and Albany Railroad Company in any case affecting said company, and of the Old Colony Railroad Company in any case affecting said company, or of the board of railroad commissioners.

Extension of subway under Cambridge street, Bowdoin square, etc.
174 Mass. 150, 156.

SECT. 5. Whenever said corporation shall request said Boston transit commission or the city of Boston to construct a subway in or under Cambridge street, Bowdoin square and Court street to connect with the subway now being constructed by said commission, and shall have made with said commission or city an agreement for the sole use by it of said proposed subway for the running of its trains therein and for other purposes, which shall be for a term of not less than twenty years and at the same rental and, so far as applicable, shall otherwise contain the same provisions as the lease already made with the West End Street Railway Company for the use of said subway, said commission shall forthwith construct an incline, open cut and subway beginning at a point on Cambridge street, near North Russell street, upon, through and under Cambridge street, Bowdoin square and Court street to a junction at Scollay square with the subway described in section twenty-five of said chapter five hundred and forty-eight and shall, at the cost and expense of said corporation, to be estimated by the street commissioners of said city and paid in advance into the treasury of said city, such estimated sum to be increased or a part thereof returned, according as the actual expenses are more or less than the sum so estimated, take for the city of Boston such lands on each side of said Cambridge street as may be necessary to make a highway thirty feet wide on each side and extending not less than thirty feet nor more than one hundred feet, as said commissioners may determine, beyond the ends of said open cut,

and shall construct such highway: *provided, however*, that in case the transit commissioners of the city of Boston shall determine that said subway may advantageously be extended nearer to Charles river than said North Russell street, said subway shall be so extended and may in such event be constructed under Cambridge street or substantially parallel therewith, and the city of Boston may, by its transit commissioners, take such land and buildings as may be needful for such construction, and the damages occasioned by such taking shall be ascertained and recovered in the manner provided by sections thirty-two and thirty-four of said chapter five hundred and forty-eight. Said takings shall be made, and the damages occasioned to any person by such takings shall be ascertained and recovered, in the manner provided in sections thirty-two and thirty-four of said chapter five hundred and forty-eight.

SECT. 6. Before constructing its railroad upon any route granted to it and before constructing any station in any public way or place said corporation shall prepare and file with the mayor of the city of Boston plans showing the form and method of construction proposed, for his examination and approval as to architectural appearance and obstruction to light and air, who shall approve or disapprove the same in writing, and if disapproved by him the corporation may appeal to the said board of railroad commissioners, who shall determine the question. Said corporation shall also prepare and file with said board plans showing the form and method of construction proposed, and the proposed location of the tracks, elevated structure and stations, with such detail as may be necessary to show the extent to which any street, way, avenue, bridge, public or private lands are to be encroached upon. Said board shall examine the same with reference to the strength and safety of the structure, and to the strength and safety of any bridge traversed thereby, and with reference to the rolling stock, motive power and method of operation, and with reference to the convenience and comfort of the public, and may employ, at the expense of said corporation, a competent engineer with whom to consult in relation thereto. When said construction plans are satisfactory to said board they shall give a certificate approving the same. The corporation shall not proceed to construct its road until such certificate has been given, and if said construction plans, as filed, are not satisfactory to said board it may require them to be changed before giving said certificate of approval; and any structure erected in accordance with said plans may be modified or changed by said corporation, with the consent of said board.

SECT. 7. Wherever the routes upon which said corporation is authorized to construct and operate its elevated railroad cross the locations or tracks of any railroad company, the crossing shall be made in such manner and the method of construction shall be such as may be agreed upon between the directors of said railroad company and the directors of said corporation; and

Preparation,
filing, appro-
val, etc., of
plans.
Certificate of
satisfactory
construction.
187 Mass. 328,
333.
192 Mass. 308,
318.

Method of
crossing rail-
road locations.
Holding of
railroad cars.
Transporta-
tion of freight
and baggage.

Application
extended by
St. 1902, c. 534,
§ 11.

if the parties are unable to agree as to the manner of crossing or method of construction at that point, the same shall be determined by the board of railroad commissioners, upon the application of either party. And in case any railroad company sustains any damage by reason of such crossing, or in case any other person or corporation suffers any damage in property, by reason of any acts done by said corporation under the authority of this act or said chapter five hundred and forty-eight, the same shall be estimated and recovered in the manner provided in sections eight, nine and eleven of said chapter five hundred and forty-eight as amended by this act, according as said sections shall apply. Said corporation may construct that portion of its elevated railroad over that part of the seventh location described in section three of this act between Albany street and Merrimac street in the city of Boston of such strength and character that it will be suitable for the hauling of railroad cars thereon; and said corporation is hereby authorized to haul railroad cars of other corporations thereon; and the restriction contained in section one of said chapter five hundred and forty-eight, as to the transportation of freight and baggage, shall not apply to transportation thereon.

Removal of
poles, wires,
etc. Inclines
to surface rail-
ways.

SECT. 8. If, in the construction of its said railroad and appurtenances, it becomes necessary for said corporation to remove any poles, wires or other structures, in, upon or over any public streets or ways, or to interfere with any pipes or structures underneath the surface of the ground in such streets or ways, it shall have the right to remove the same: *provided, however*, that it shall at its own expense provide for such structures, either above or below ground, in such manner as the superintendent or other officer having charge of the streets may approve. Said corporation may construct inclines at such points as it may deem expedient, for the purpose of making connections with surface railways or railroads.

Application
extended by
St. 1902, c. 534,
§ 11.

Provisions
regulating
apportion-
ment of dam-
ages among
different
interests.

Application
extended by
St. 1902, c. 534,
§ 11.

SECT. 9. The provisions of chapter forty-nine of the Public Statutes, relative to cases where damages are claimed to estates in which two or more persons have different, separate or several interests, shall apply to all proceedings under sections eight, nine and eleven of said chapter five hundred and forty-eight of the acts of the year eighteen hundred and ninety-four in which damages caused by the acts of said corporation are claimed for such estates.

Regulation of
fares and tolls.
181 Mass. 206,
208.

SECT. 10. Said corporation may establish, and take a toll or fare, which shall not exceed the sum of five cents for a single continuous passage in the same general direction upon the roads owned, leased or operated by it; and this sum shall not be reduced by the legislature during the period of twenty-five years from and after the passage of this act: *provided, however*, that the board of railroad commissioners may upon the petition of the board of aldermen of a city, selectmen of a town, or fifty legal voters of a city or town, in which any of the lines owned, leased or operated by said corporation are located, after due

notice and hearing the parties interested, reduce such toll or fare; but such toll or fare shall not, without the consent of said corporation, be so reduced as to yield, with all other earnings and income of said corporation, except the income of the funds deposited with the treasurer of the commonwealth as required by this act and said chapter five hundred and forty-eight, a net divisible income, after paying all expenses of operation, interest, taxes, rentals, and other lawful charges, and after charging off a reasonable amount for depreciation, of less than eight per cent. per annum on the outstanding capital stock of said corporation actually paid in in cash. The report of the board shall be final and conclusive for one year. During said period of twenty-five years no taxes or excises not at present in fact imposed upon street railways shall be imposed in respect of the lines owned, leased or operated by said corporation, other than such as may have been in fact imposed upon the lines hereafter leased or operated by it at the date of such operating contract or of such lease or agreement hereafter made therefor nor any other burden, duty or obligation which is not at the same time imposed by general law on all street railway companies: *provided, however*, that said corporation shall be annually assessed and shall pay taxes now or hereafter imposed by general law in the same manner as though it were a street railway company, and shall, in addition, as compensation for the privileges herein granted, and for the use and occupation of the public streets, squares and places, by the lines of elevated and surface railroad owned leased and operated by it, pay to the commonwealth, on or before the last day of November in each year, during said period of twenty-five years, an annual sum, the amount of which shall, in each year ending the last day of September, be determined by the amount of the annual dividend paid in that year by said corporation, in the following manner: — If the annual dividend paid is six per cent. or less, or if no dividend is paid, the sum payable that year shall be a sum equal to seven-eighths of one per cent. of the gross earnings of all the lines of elevated or surface railroads owned, leased or operated by said corporation; if said dividend exceeds six per cent. then a sum equal to the excess of the dividends over six per cent. in addition to said seven-eighths of one per cent. of said gross earnings. The above sum shall be paid into the treasury of the commonwealth and distributed among the different cities and towns in proportion to the mileage of elevated and surface main track, reckoned as single track, which is owned, leased or operated by said corporation and located therein. Said corporation shall also provide free transfer from elevated to surface and from surface to elevated cars at all stations of the elevated lines reached by surface lines and from one elevated car or train to another at junction points entitling a passenger to a continuous ride in the same general direction, and such further free transfers on all the surface lines of railway owned, leased or operated by it, as may be satisfactory to or required by the board of railroad commissioners.

Regulation of
income on
capital stock.

Taxes.

Free transfers.

St. 1894, c. 548,
§ 17, amended.

Lease or
operation of
tributary lines.

SECT. 11. Section seventeen of said chapter five hundred and forty-eight is hereby amended by striking out the whole of said section and inserting in place thereof the following: — *Section 17.* Said corporation is hereby authorized, at any time after the passage of this act, to lease and operate the lines, property, rights, locations and franchises of the West End Street Railway Company, and of any other street railways or elevated railroads whose lines may be or become, in whole or in part, tributary to or connecting with its lines, and enjoy all the rights and privileges thereto appertaining and belonging, subject to the duties, liabilities and restrictions thereto appertaining; and said West End Street Railway Company, and such railways or railroads, are hereby authorized to make such leases or operating contracts, upon the consent in each case of a majority in interest of their stockholders, given at a meeting called for that purpose: *provided, however,* that no such lease or operating contract of the West End Street Railway Company shall be valid until the terms thereof, so far as they relate to the rental or compensation to be paid, and to the due and safe transportation of the public, have been approved by the board of railroad commissioners; and *provided, further,* that any lease of any other street railway or elevated railroad company shall be subject to the provisions of all general laws relating to the leasing of street railways.

Construction
of elevated
railway in
subway condi-
tional on con-
sent of West
End Street
Railway Com-
pany.

SECT. 12. Said corporation shall not construct, maintain and operate its railroad in the subway now constructed or in process of construction and now leased to the West End Street Railway Company, unless said street railway company shall, under the provisions of said lease, assign to said corporation its rights, powers and privileges thereunder, or otherwise consent to such construction, maintenance or operation; and in such event said corporation may construct and, during the term of the existing and any future contract for the use of the subway, may operate its railroad in said subway. In such event, upon the request of said corporation and upon its agreement that the cost thereof shall be considered as part of the cost of the subway under the existing contract with said West End Street Railway Company for the use of the same, the Boston transit commission shall make such alterations in the subway, and the approaches thereto, as may be necessary to render the same suitable for the running of cars and trains of cars through the same, in connection with the elevated structure, upon the routes hereinbefore granted, and said commission shall discontinue so much of Travers street as may be necessary to provide a gradual incline from the northerly portion of the subway to the elevated structure on Causeway street. Said transit commission shall also construct the new bridge across the Charles river, now in process of construction by them, of such strength as to safely support said elevated railroad thereon, and shall so design the same that the elevated structure may be placed thereon; but any alteration in the plan and structure of said bridge hereafter made by said

commission in order to secure such additional strength shall be paid for by said corporation.

SECT. 13. Said corporation shall, within three months from the passage of this act, deposit with the treasurer of the commonwealth the sum of three hundred thousand dollars in cash or securities satisfactory to said treasurer, and the same, or any portion thereof remaining after the payment of all executions under the provisions of section thirteen of said chapter five hundred and forty-eight, shall be forfeited to the commonwealth if said corporation shall negligently fail to perform either of the requirements hereinafter in this section set forth, namely: — Within sixty days from the making of such deposit the corporation shall apply to the board of aldermen of the city of Boston for a route of not less than four or more than seven miles of double track in said city, exclusive of subways, over locations hereinbefore granted. If the route so applied for is not approved by the mayor and aldermen within sixty days of the application therefor, the corporation shall within thirty days from the expiration of said sixty days apply to the board of railroad commissioners for such approval, who shall have authority to approve the same, and upon any refusal or failure for sixty days of any board of aldermen or selectmen to approve any route lawfully applied for by said corporation, the corporation may apply therefor to said board, which may approve the same. The corporation shall construct its railroad over said route first applied for as aforesaid within three years after it is authorized to begin the construction thereof. In the case of its failure so to do any lease from the West End Street Railway Company to said corporation shall thereupon cease and determine. If such construction is delayed by litigation or unforeseen casualty, so that the same cannot be completed within said period of three years, the corporation may apply to the supreme judicial court for relief from such forfeiture or determination of said lease, and the court upon, notice to the attorney-general, the city of Boston, and the West End Street Railway Company, and upon hearing and proof that said litigation was not collusive, or that such casualty was without the fault of said corporation, may grant relief against such forfeiture or determination of the lease, and may fix the time within which such construction shall be completed.

Deposit to
secure per-
formance of
requirements
of law.
Amended by
St. 1901, c. 90.

SECT. 14. Said corporation shall also, within one year after it is authorized to begin the construction of its railroad over the route first applied for as provided in section thirteen of this act, apply for a further route of such length that the same, with said route first applied for, shall amount to not less than seven miles of double track, exclusive of subways, over locations hereinbefore granted. If said route is not approved by the mayor and aldermen of the city wherein said location is applied for within sixty days of the application therefor, the corporation shall, thirty days from the expiration of said sixty days, apply to the board of railroad commissioners for such

Application
for a further
route.
Amended by
St. 1901, c. 90.

approval, who shall have authority to approve the same. Said corporation shall construct its railroad over said route within three years after it is authorized to begin the construction thereof.

Application to legislature for construction of Cambridge bridge. Amended by St. 1906, c. 520, § 23.

Contribution toward cost of construction.

Application for route to Brattle square.

SECT. 15. Said corporation shall join with the city of Boston and the city of Cambridge in a petition to the legislature for the year eighteen hundred and ninety-eight or the year eighteen hundred and ninety-nine, as said cities may elect, for an act authorizing the construction and maintenance of a bridge across the Charles river, at or near the present site of the West Boston bridge, suitable for the use of the elevated and surface cars of said corporation, and also for all the purposes of ordinary travel between said cities; and said corporation shall pay towards the construction of said bridge such portion thereof as shall be rendered necessary by reason of its being of additional size and strength for the use of the elevated railroad of said corporation, and shall also itself construct or shall pay for constructing its railway, both elevated and surface, across said bridge, and the balance of such cost beyond that paid by said corporation shall be paid one half by the city of Boston and one half by the city of Cambridge. Said corporation shall also, within the period of six months from the time such bridge is finished, apply for a route beginning at any of its lines of elevated track in Boston to said new bridge, across the same, to Brattle square in Cambridge, over the locations hereinbefore granted. If said route is not approved by the mayor and aldermen of Boston and Cambridge, within sixty days of the application therefor, the said corporation shall, within thirty days from the expiration of said sixty days, apply to the board of railroad commissioners for such approval, who shall have authority to approve the same. Said corporation shall construct its railroad over said route within two years after it is authorized to begin the construction thereof. The city of Cambridge may petition the supreme judicial court sitting in equity, to enforce compliance with the provisions of this section, and if it be found, on the petition of said city, that said corporation has failed to comply with said provisions, the said supreme judicial court may pass such order or decree as it may deem proper in the premises.

St. 1894, c. 548, § 20, amended.

Provisions for enforcement of act.

SECT. 16. Section twenty of said chapter five hundred and forty-eight is hereby amended by striking out the whole of said section and inserting in place thereof the following: — *Section 20.* The supreme judicial and superior courts shall have jurisdiction in equity, on petition of any party in interest, or any city or town in which said corporation is required to build a railroad under this act, to compel compliance with the provisions of this act, and to enforce any order made under the authority thereof, and to prevent violation of any of the provisions thereof, and if it shall be found on complaint of any city or town in which said corporation has built or is proceeding to build a railroad under this act, or of any party in interest, that

said corporation has negligently failed to comply with the provisions of this act, the court may pass such order or decree as it may deem proper in the premises: *provided, however*, that no petition in equity shall be filed for damages for which an action is given by this act until payment thereof has been refused on execution issued as provided in section twelve.

SECT. 17. Whenever said corporation is authorized to begin the construction of its railroad over the route first applied for, as provided in section thirteen of this act the Boston transit commission shall construct a tunnel or tunnels, of sufficient size for two railway tracks, with approaches, entrances, sidings, stations and connections therefor, and for the running of railway cars therein, from a point on or near Hanover street in the city of Boston, or such other point or points as said board may deem proper for a suitable connection with the subway or subways provided for in section twenty-five of said chapter five hundred and forty-eight, to a point at or near Maverick square in that part of Boston called East Boston, where a suitable connection with surface tracks may be made. Said tunnel or tunnels shall be constructed in a thorough and substantial manner, with special reference to strength, durability and safety for railway travel, and shall be water tight, or in case of leakage the water shall be taken care of by said city. Upon completion thereof said commission shall execute a lease thereof in writing to said corporation for a term expiring twenty-five years from the date of the passage of this act, at an annual rental equal to three-eighths of one per cent. of the gross receipts for each year ending September thirtieth, of all lines owned, leased or operated by said corporation, to be paid to said city on or before the last day of November in each year, with the privilege to the lessee to sublet the same, such lease to contain such other terms and provisions as may be agreed on by said commission and said corporation, or in case of disagreement, as shall be determined by the board of railroad commissioners. Said rental shall be in full compensation for the exclusive use of said tunnel by said corporation, its sub-lessees, successors or assigns. Said city shall collect from each person passing through said tunnel in either direction a toll of one cent: *provided, however*, that if in any year ending on the thirtieth day of September the receipts from such tolls, together with the rental above provided for, amount to a sum so in excess of the interest and sinking fund requirements of said bonds for that year that the board of railroad commissioners is of opinion that the toll may be reduced, said board shall on petition of ten citizens of said city establish such reduced toll for the period of one year from the first day of January next ensuing, as will in its opinion yield an amount sufficient to meet, with said rental, said interest and sinking fund requirements for that year; or said board may altogether discontinue such toll when it is of opinion that such rental alone is sufficient to meet said requirements; but any such reduction shall be carried into effect by a provision for the sale of tickets,

Construction
of East
Boston tunnel.
Affected by
St. 1902, c. 114.
See St. 1894,
c. 548, § 26.
174 Mass. 150.
176 Mass. 9, 12.
180 Mass. 609.

Lease of
tunnel.

Toll for
passengers.

Reduction of
toll.

and the cash fare shall continue to be one cent. The whole amount of such tolls and of said rentals is hereby pledged to meet the principal and interest of the bonds issued to pay for the construction of said tunnel or tunnels, and this pledge shall be expressed on the face of such bonds as one of the terms thereof; *provided, however*, that after such tolls have been discontinued if said rentals shall for any year ending on the thirtieth day of September yield an amount more than sufficient to meet the interest and sinking fund requirements of said bonds for such year such excess over said requirements shall be regarded as general revenue of said city. In case in any year the rentals and tolls above provided for shall not yield a sufficient amount to meet said interest and sinking fund requirements the compensation received by said city under section ten of this act shall be applied so far as may be necessary toward meeting such requirements. Said corporation shall be the agent of said city to collect such tolls, under such arrangements as shall be agreed upon by said city and said corporation, or in case of disagreement, as shall be determined by the board of railroad commissioners.

Rapid Transit
Loan.
176 Mass. 9, 12.

SECT. 18. The treasurer of said city shall from time to time, on the request of said transit commission, issue and sell at public or private sale, bonds of said city to the amount required to pay the cost and expenses of constructing the incline, open cut and subway under Cambridge street, Bowdoin square and Court street provided for in section five of this act, and the stations, steps and other structures in connection therewith, and of any alterations in subways which may be required under the lease of the subway made by said commission with said West End Street Railway Company, and shall further issue bonds for the purposes hereinafter specified to the amount of five hundred thousand dollars; all of said bonds shall be designated on their face, Rapid Transit Loan, shall be for the term of forty years, and be registered or have coupons attached, and shall bear interest at a rate not exceeding four per cent. per annum, payable semi-annually, as said treasurer shall determine, and shall not be included in determining the limit of indebtedness of said city; said treasurer shall apply the proceeds of said five hundred thousand dollars in bonds, and the proceeds of the seven millions of dollars in bonds authorized to be issued by said chapter five hundred and forty-eight, to the payment of the costs and expenses of constructing the subways authorized by section twenty-five of said chapter five hundred and forty-eight, and of the tunnel or tunnels to East Boston provided for in the preceding section, and the stations, inclines and steps in connection therewith, but a separate account shall be kept of the bonds issued for, and expenses incurred in connection with, the construction of said tunnel or tunnels.

Provisions as
to revocation
of locations.
181 Mass. 205,
208.

SECT. 19. The locations of or right to maintain any elevated lines or structures of the Boston Elevated Railway Company shall not be subject to revocation except in the manner and on

the terms prescribed in sections seven and eight of chapter one hundred and twelve of the Public Statutes: *provided, however*, that any location upon which said corporation has not constructed its railroad within ten years from the passage of this act shall be subject to revocation by the legislature; but no location upon which said corporation has begun the construction of its railroad within said period shall be subject to revocation if the same be completed within three years thereafter.

SECT. 20. Section ten of said chapter five hundred and forty-eight of the acts of the year eighteen hundred and ninety-four is hereby amended so as to read as follows:—*Section 10.* Said corporation may locate stations at convenient points, with suitable exits and approaches to and from the streets and stations, but the same, excepting platforms and approaches thereto from buildings, shall not be located in any public way or place, unless approved by the mayor and aldermen or selectmen.

SECT. 21. Except as otherwise expressly provided in said chapter five hundred and forty-eight and by this act, said corporation shall have all the powers and privileges and be subject to all the duties, liabilities and restrictions set forth in general laws now or hereafter in force relating to street railway companies, so far as the same may be applicable, but the provisions of chapter one hundred and thirteen of the Public Statutes or other general laws relating to the alteration or revocation of locations of street railway companies, shall not be deemed applicable to the locations or routes for elevated railroads granted to said corporation. So much of section one of said chapter five hundred and forty-eight as provides that said corporation shall be subject to the general laws relating to railroad corporations is hereby repealed.

SECT. 22. Sections sixteen, nineteen and twenty-one of said chapter five hundred and forty-eight are hereby repealed.

SECT. 23. This act shall take effect upon its passage.

[Approved June 10, 1897.]

St. 1894, c. 548,
§ 10, amended.

Location of
stations.

Provisions of
law applicable
to said cor-
poration.
181 Mass. 205,
208,
192 Mass. 308,
315.
Application
extended by
St. 1902, c. 534,
§ 11.

Repeals.

1899. — CHAPTER 375.

AN ACT RELATIVE TO THE BOSTON TRANSIT COMMISSION.

Be it enacted, etc., as follows:

SECTION 1. The term of office of the members of the Boston transit commission is hereby extended for three years from the first day of July in the year eighteen hundred and ninety-nine.

Term extended. Sts. 1902, c. 534, § 17; 1906, c. 213.

SECT. 2. The powers, duties and compensation of said commission and of the members thereof during said term of three years, shall be the same as are specified and provided in chapter five hundred and forty-eight of the acts of the year eighteen hundred and ninety-four and in acts in amendment thereof or in addition thereto; and any vacancy occurring in said commission

Extension of
term of
Boston transit
commission.
1894, 548, § 23.

Powers,
duties and
compensation
of commission.
Application of
provisions
extended by
St. 1902, c. 534,
§ 17.

shall be filled in the manner provided in said chapter five hundred and forty-eight. Said compensation and the expenses incurred by said commission shall be paid as provided in said chapter five hundred and forty-eight and in acts in amendment thereof or in addition thereto.

SECT. 3. This act shall take effect upon its passage.

[Approved May 19, 1899.]

1900. — CHAPTER 258.

AN ACT RELATIVE TO THE TAKING OF LAND OR OTHER PRIVATE PROPERTY BY THE BOSTON ELEVATED RAILWAY COMPANY, AND TO CONFIRM THE LOCATIONS OF SAID COMPANY IN THE COUNTY OF SUFFOLK.

Be it enacted, etc., as follows :

Assessment by
jury of dam-
ages for taking
of land.
1894, 548, § 11.

SECTION 1. In all cases wherein the Boston Elevated Railway Company has heretofore taken or shall hereafter take land or private property in accordance with the provisions of section eleven of chapter five hundred and forty-eight of the acts of the year eighteen hundred and ninety-four, either party, if dissatisfied with the estimate of the county commissioners, or of the aldermen of the city of Boston having like powers and performing like duties within said city as are exercised and performed by the county commissioners of counties, may at any time within one year after the estimate is made apply for a jury in the superior court for the county in which such land or private property is situated, to assess the damages occasioned by such taking, and upon such application the proceedings shall be the same as are provided for the recovery of damages in the laying out of highways.

Ratification of
locations filed
in county of
Suffolk.
1894, 548, § 7.
Amended by
St. 1907, c. 277.

SECT. 2. The locations of the Boston Elevated Railway Company in the county of Suffolk, filed by said company with the aldermen of the city of Boston, are hereby ratified and confirmed as valid locations and takings to all intents and purposes of the lands described in said locations and in the plans accompanying the same: *provided, however,* that claims for damages by reason of said locations and takings, or any of them, not heretofore legally satisfied, may be made and enforced in the same manner and with the same effect as if the filing of each and all of said locations and takings was first made at the time of the passage of this act.

SECT. 3. This act shall take effect upon its passage.

[Approved April 25, 1900.]

1901. — CHAPTER 90.

AN ACT TO EXTEND THE TIME WITHIN WHICH THE BOSTON ELEVATED RAILWAY COMPANY SHALL CONSTRUCT CERTAIN PARTS OF ITS RAILWAY.

Be it enacted, etc., as follows :

SECTION 1. Sections thirteen and fourteen of chapter five hundred of the acts of the year eighteen hundred and ninety-seven are hereby amended by inserting after the words "three years", wherever they occur in said sections, the words: —and six months.

St. 1897, c. 500,
§§ 13, 14,
amended.

SECT. 2. This act shall take effect upon its passage.

[Approved February 27, 1901.]

1902. — CHAPTER 114.

AN ACT RELATIVE TO THE CONNECTING OF THE EAST BOSTON TUNNEL, THE CAMBRIDGE STREET SUBWAY, AND OTHER SUBWAYS.

Be it enacted, etc., as follows :

SECTION 1. The provisions of chapter five hundred of the acts of the year eighteen hundred and ninety-seven, relative to the construction of a tunnel to East Boston and a subway under Cambridge street are extended so that the East Boston tunnel and the Cambridge street subway may, with the consent of the Boston Elevated Railway Company, be connected with the existing subway and with each other, and with any other subway, on such terms, in such manner and at such points, whether at grade or otherwise, as the Boston transit commission may deem that the public interests require.

Application of
provisions of
St. 1897, c. 500,
extended.

SECT. 2. The provisions of chapter five hundred and forty-eight of the acts of the year eighteen hundred and ninety-four, of chapter five hundred of the acts of the year eighteen hundred and ninety seven, and of the acts in amendment of or in addition to said acts, shall apply to the Boston transit commission and the members thereof in the execution of any work authorized by law to be done by said commission.

Application of
provisions of
Sts. 1894, c. 548,
and 1897, c. 500.

SECT. 3. This act shall take effect upon its passage.

[Approved February 25, 1902.]

1902. — CHAPTER 534.

AN ACT TO PROVIDE FOR THE CONSTRUCTION OF ADDITIONAL TUNNELS AND SUBWAYS IN THE CITY OF BOSTON.

Be it enacted etc., as follows :

SECTION 1. The Boston transit commission, hereinafter called the commission, may construct in the city of Boston, hereinafter called the city, a system of tunnels and subways so

Construction
of Washington
street tunnel
and subway.
1894, 548, § 25.

Modified by
St. 1904, c. 167,
and St. 1905,
c. 460.

designed as to be adapted for the accommodation of two tracks especially for use by elevated cars or trains and two tracks especially for use by surface cars, from a point or points near the junction of Broadway and Washington street or within one thousand feet therefrom, through and under public streets, squares or places and public or private lands, between the existing subway and a line parallel with and seven hundred and fifty feet easterly from Washington street to the line of Court and State streets, and thence northerly by such route as may be deemed best, to a point or points in or near Adams square, Haymarket square or Causeway street, together with approaches, sidings, entrances, stations, elevators, inclines, connections and other structures, hereinafter called appurtenances, which shall also include connections either at grade or otherwise with the East Boston tunnel and the existing subway.

The structure for the two tracks especially adapted for elevated cars or trains, hereinafter called the tunnel, shall be begun immediately after the acceptance of this act by a majority of the voters of the city as hereinafter provided. The structure for the remaining two tracks, hereinafter called the subway, shall be begun at such time after the expiration of one year from the completion of the tunnel as the commission and the Boston Elevated Railway Company, hereinafter called the company, may agree upon, or, in case of difference, as the board of railroad commissioners, hereinafter called the board, shall determine that the public interests require. The structure or structures for all four tracks, with the appurtenances, or any part or parts thereof, may be begun at any time after the acceptance of this act by a majority of the voters of the city as hereinafter provided, if and so far as the commission deems it expedient and if the company by its board of directors consents thereto.

Preliminary
investigations.
Entry upon
lands.
1894, 548, § 37.

SECT. 2. The commission shall immediately after the passage of this act make such preliminary investigations, surveys and plans as it deems expedient, and to that end may enter upon any lands and place and maintain marks therein, and may make excavations, borings and do all other acts necessary for such investigations and surveys. The commission may expend such sums as it deems necessary therefor. The expenses incurred in making such preliminary investigations, surveys and plans shall be paid from the loan authorized by chapter five hundred and forty-eight of the acts of the year eighteen hundred and ninety-four and acts in addition thereto, but if construction is begun hereunder the amount so expended shall be transferred and charged to the cost of such construction.

Filing plan of
location a pre-
requisite to
construction.

SECT. 3. The commission shall not begin the work of construction until it has filed in the office of the city engineer a plan signed by the commission showing the location of that part of the work which it is about to construct. Any such plan so filed may be altered at any time by a new plan signed and filed in like manner.

SECT. 4. The commission may make contracts in the name of the city for the work herein authorized, but all contracts involving two thousand dollars or more in amount shall be in writing and signed by a majority of the commission; and no such contract shall be altered except by an instrument in writing signed by the contractor and a majority of the commission, and also by the sureties, if any, on the bond given by the contractor, for the completion of the original contract. No such contract or alteration of any such contract shall be valid or binding on the city unless executed in the manner aforesaid.

Contracts for
work of con-
struction.

SECT. 5. All work done under this act under or near public streets and places shall be conducted, so far as practicable, in such manner as to leave such streets and places, or a reasonable part thereof, open for traffic between the hours of eight in the forenoon and six in the afternoon of each secular day except public holidays.

Work so to be
conducted as
to leave streets
open for
traffic.

SECT. 6. S. The commission may for the purposes of this act use public ways and lands without compensation therefor, and may take for the city, by purchase or otherwise, lands in fee and easements, estates, and rights in land, including the right to go under the surface thereof or through or under buildings or parts of buildings thereon, and such takings in fee or otherwise may be made whether the lands taken or otherwise affected are held under or by title derived under eminent domain or otherwise. A taking under this section of an easement or other estate or right in a given parcel of real estate, whether such parcel consists of unimproved land or of land and buildings, may be confined to a portion or section of such parcel fixed by horizontal planes of division below or above or at the surface of the soil, and in such case no taking need be made of upper or lower portions or sections, except of such easements therein, if any, as the commission may deem necessary. The commission, to make any taking by right of eminent domain, shall cause to be recorded in the registry of deeds for the county of Suffolk a description of the lands, easements, estates or rights to be taken, as certain as is required in a common conveyance of land, with the statement that the same are taken under authority of this act, which description and statement shall be signed by the commission; and the lands, easements, estates or rights therein described shall upon such recording be taken for and shall vest in the city. The commission shall, so far as may be practicable, notify all known owners of such takings, but the validity thereof shall not be affected by want of such notice.

Use of public
ways and
land. Taking
of lands,
rights, etc.
Amended by
St. 1907, c. 258.

SECT. 7. The commission may sell or remove the buildings from any and all lands taken by it, and shall sell, if a sale be practicable, or if not shall lease, any lands, or rights or interests in land or other property so taken, or purchased for the purposes of this act, whenever the same shall in the opinion of the commission cease to be needed for such purposes. The proceeds of such sales, and the fair valuation of any such lands or other property no longer needed for such purposes but not actually

Record in
registry of
taking.

Sale of build-
ings, etc.,
removed and
disposition of
proceeds

sold, as agreed on by the commission and the company, or in case of difference as determined by the board, shall be deducted from the cost of the tunnel or the subway, as the case may be, for the purpose of ascertaining the rental thereof.

Determina-
tion of dam-
ages. Assess-
ment by a
jury.

SECT. 8. The commission shall determine and award the damages sustained by any person by reason of property taken or injured by the commission under authority of this act, except public ways or lands, and may agree with any person as to the amount to be paid as damages sustained by him for any property so taken or injured, which damages the city shall be liable to pay. If such person is dissatisfied with such award, or cannot agree with the commission upon his damages, the same may be determined by a jury in the superior court for the county of Suffolk, on petition therefor of such person or of the commission against the city, filed in the clerk's office within one year after such property is so taken or injured; and judgment shall be entered upon the determination of such jury, and costs shall be taxed and execution issued in favor of the prevailing party as in civil cases. The members of the commission shall not be personally liable for any such damage.

Immunity of
members of
commission
from personal
liability.

Removal or
relocation of
surface tracks.

SECT. 9. The commission may order the temporary removal or relocation of any surface tracks, and the temporary or permanent removal or relocation of any conduits, pipes, wires, poles or other property of any person or corporation, which it deems to interfere with the construction or operation of the tunnel or subway, and shall grant new locations for any such structures so removed or relocated. Such orders, to the extent specified therein, shall be deemed a revocation of the right or license to maintain such tracks, conduits, pipes, wires, poles or other property, and the owner of any such structures in public ways or lands shall comply with such orders without expense to the city. If such owner shall fail to comply with the order of the commission within a reasonable time, to be fixed in the order, the commission may discontinue and remove such tracks, conduits, pipes, wires, poles or other property, and may relocate the same, and the cost of such discontinuance, removal or relocation shall be repaid to the city by the owner. No such discontinuance, removal or relocation shall entitle the owner of the property thus affected to any damages on account thereof. Any such structures in or upon private lands may be removed and relocated by the commission, or if removed and relocated by the owner thereof the reasonable expense shall be repaid him by the commission. Any gas company may shut off the gas from any pipes affected by any acts done hereunder, when and so far as it may be necessary to avoid danger of escape or explosion of gas.

Contract with
elevated rail-
way company
for exclusive
use of tunnel.

SECT. 10. The commission shall within ninety days after the passage of this act execute with the company, in the name of the city, the company consenting thereto, a contract in writing for the sole and exclusive use of the tunnel and subway and appurtenances for the period of twenty-five years from the beginning of the use of the tunnel, at an annual rental equal to

four and one half per cent. of the net cost of the tunnel and subway, respectively, for the running of trains and cars therein, and for such other uses and upon such provisions and conditions, not affecting the term or rental, as the commission and the company may agree upon, or in case of difference, as the board may determine. The provisions of this act, in so far as they declare, define or establish the terms and conditions for the construction, tenure, maintenance and operation of said tunnel, subway and appurtenances, shall be embodied in and made part of said contract. The use of the tunnel or subway respectively shall begin when, in the opinion of the commission, a reasonable time after completion has been allowed for equipment. The net cost of the tunnel and subway respectively shall be deemed to include all expenditures incurred in acquisition and construction, including damages, expenses and salaries of the commission, and interest at three and one fourth per cent. per annum on the debt incurred in construction prior to the beginning of the use. If the contract for the use of the tunnel and subway is executed as above provided the commission, upon the acceptance of this act by the voters of the city as hereinafter provided, shall proceed with the work of construction.

SECT. 11. If the company shall execute the contract hereinbefore provided for, the company may, before the completion of the tunnel, construct lines of elevated railway according to such plans as the board may approve, to be operated by electricity or by such other motive power except steam, as may be approved by the board in respect of the locations heretofore granted to the company, upon the following locations, which are hereby granted therefor, and may equip, maintain and operate engines, motors, trains and cars thereon, to wit:— (a) beginning at the southerly end or ends of the tunnel, thence upon and over any streets and public or private lands to the company's elevated structure now erected on or near Washington, Motte or Castle street; (b) beginning at the northerly end or ends of the tunnel, thence upon and over any streets, squares and public or private lands to the company's elevated structure now erected on or near Causeway street; and (c) such other locations as may in the opinion of the board be necessary or convenient to connect the tunnel with the elevated structures of the company. For the purposes of this act, including all equipment or other expenditure by the company thereby required or authorized, the company may issue such amounts of its stock or bonds, or of each, as may be necessary therefor, subject to all laws applicable to such issue; and it shall have all the rights and powers, and be subject to all the restrictions, liabilities and obligations conferred or imposed by sections eight, nine, eleven, twelve and fifteen of chapter five hundred and forty-eight of the acts of the year eighteen hundred and ninety-four, and sections seven, eight, nine and twenty-one of chapter five hundred of the acts of the year eighteen hundred and ninety-seven. The locations granted by this section in, upon or over

Construction of elevated railway upon certain locations. 1894, 548, § 6.

Removal of
elevated trains
from subway
and readapta-
tion of subway
to surface cars.

public ways or lands shall be held by the company or its assigns so long as it or they have the use of the tunnel.

SECT. 12. Upon the completion of the tunnel and appurtenances and upon notification as hereinbefore provided, the company shall remove its elevated trains and cars from the existing subway; and thereupon any alterations therein or in the approaches thereto necessary to re-adapt it to the use of surface cars shall be made by the commission, and the expense thereof shall be deemed part of the cost of the tunnel. The tunnel during the term of the contract hereinbefore provided for shall be and be considered a part of the elevated railway operated by the company; and the board, subject to the provisions of the contract, shall have and exercise the same power and control over the same in all respects that are conferred upon the board as to the elevated structure by chapter five hundred and forty-eight of the acts of the year eighteen hundred and ninety-four, chapter five hundred of the acts of the year eighteen hundred and ninety-seven and by other laws in addition thereto. The company, upon removal of its elevated trains from the existing subway, may discontinue the use of its elevated structures and locations connecting its elevated road therewith, and may sell any lands or other property acquired for the purposes of such connection, applying all proceeds thereof to proper corporate uses; and such discontinuance or sale shall not be deemed to impair the capital of the company.

Revision of
findings of
commission by
railroad com-
missioners.

SECT. 13. Upon the determination by the commission of any important question arising in the course of the work herein provided for, upon which the company has previously requested a hearing, except an award of or agreement upon damages as provided in section eight hereof, the company may within three days after notice of such determination apply to the board for a revision of the same, and thereupon the board may consider and finally determine such question.

Revocation of
surface loca-
tions on Wash-
ington street.

SECT. 14. At any time after the expiration of one year from the completion of the subway the board may order such surface tracks, together with the poles and wires used for the operation of cars thereon, to be removed from any part of Washington street between Broadway and Adams square, except tracks crossing said street, as in its opinion have been rendered unnecessary by the construction of such subway. Such order of the board shall be deemed a revocation of all rights or locations to occupy for street railway purposes the street or part thereof included in the order; and surface tracks shall not thereafter be laid or maintained thereon. Nothing in this section contained shall be construed as affecting any existing power to revoke locations on said street or any part thereof as provided by law.

Use and con-
trol of subway
subject to
rights of West
End Street
Railway Com-
pany.

SECT. 15. The use and control of the subway, if acquired by the company, shall be subject to the rights, if any, which the West End Street Railway Company may have under the provisions of article two of its lease to the company, dated December ninth, eighteen hundred and ninety-seven, or otherwise.

SECT. 16. The treasurer of the city shall from time to time, on request of the commission, issue and sell at public or private sale, the bonds of the city, registered or with interest coupons attached, as he may deem best, to an amount not exceeding the cost of the tunnel and subway herein provided for. Such bonds shall be designated on their face, Boston Tunnel and Subway Loan, shall be for such terms, not exceeding fifty years, as the mayor and treasurer of said city may determine, and shall bear interest payable semi-annually at such rate not exceeding four per cent. per annum, as the treasurer shall determine. The debts incurred by the city from time to time under the provisions of this act shall not be included in determining the limit of indebtedness of the city as established by law, and the proceeds of such bonds shall be used to meet all damages, costs and expenses incurred by the commission or the city in carrying out the provisions of this act. The board of commissioners of sinking funds shall establish a sinking fund for the payment of the bonds issued under this act. All premiums received from the sale thereof shall be paid into the sinking fund. All rents, tolls, percentages or other annual compensation received by the city for any use of the tunnel or subway under this act, or for any use of any lands or rights taken under authority of this act, shall annually be used by the treasurer, — first, to meet the requirements of and any deficiency in the sinking fund, — second, to meet the interest on the bonds, and the surplus, if any, as a part of the general revenue of the city. The proceeds from any sale of lands or rights taken by purchase or otherwise under authority of this act shall be paid into the sinking fund, or shall be used for construction, as the commission may determine.

Boston Tunnel
and Subway
Loan,
1894, 548, § 37.

Sinking fund.

SECT. 17. The term of office of the commission is hereby extended to the first day of July in the year nineteen hundred and six. The provisions of section two of chapter three hundred and seventy-five of the acts of the year eighteen hundred and ninety-nine shall remain in force during said extended term. If the term of the commission, as hereby or as hereafter extended, expires before the completion of the work herein provided for, the city shall have all the rights, powers and privileges, and be subject to all the duties, restrictions and liabilities, hereby conferred or imposed upon the commission in respect thereof, such powers to be exercised by the mayor, city engineer and city treasurer in place of the commission, or by such other officers as the city council may prescribe. If this act is not accepted by a majority of the voters of the city, as hereinafter provided, the term of office of the commission shall be extended only to the first day of July in the year nineteen hundred and four. The members of the commission for the extended term provided for in this act shall be appointed by the governor and the mayor of the city in the manner provided in section twenty-three of chapter five hundred and forty-eight of the acts of the year eighteen hundred and ninety-four. Said appointments shall be for the term of two years.

Term of com-
mission ex-
tended.
1899, 375, § 2.

Further
extended by
St. 1906, c. 213.

Enforcement
of provisions
of this act.

SECT. 18. The supreme judicial court and the superior court, upon application of any party in interest, including the city or any ten taxable inhabitants thereof, may enforce or prevent violation of the provisions of this act by any appropriate process.

Acceptance of
act.

SECT. 19. If the contract for the use of the tunnel and subway is executed by the commission and the company as hereinbefore provided, this act shall be submitted for acceptance to the voters of the city at the next municipal election, and if accepted by a majority of those voting thereon at such election it shall thereupon take full effect.¹ The city shall have, hold and enjoy in its private or proprietary capacity, for its own property, the existing subway, the East Boston tunnel, the Cambridge street subway and the tunnel and subway built under this act, and all rents, tolls, income and profits from all contracts heretofore or hereafter entered into for the use of said subways or tunnels or any part thereof, and the same shall never be taken by the commonwealth except on payment of just compensation: *provided, however*, that so much of such rents, tolls, income and profits as may be necessary therefor shall be paid into the respective sinking funds for the redemption of said bonds and used for the payment of the interest thereon.

Rights of the
city of Boston
defined.
184 Mass. 586.

Date of taking
effect.

SECT. 20. For the purposes of the preliminary work authorized by section two hereof the payment of the expense of the same, the extension of the term of office of the commission and its powers to the first day of July in the year nineteen hundred and four, the appointment of the members thereof, and the execution of the contract provided for by section ten, and the submission of this act to the voters as hereinbefore provided, this act shall take effect upon its passage.

[Approved June 27, 1902.]

1903. — CHAPTER 190.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO PROVIDE FUNDS
FOR THE CONSTRUCTION OF THE EAST BOSTON TUNNEL.

Be it enacted, etc., as follows:

Rapid Transit
Loan.

SECTION 1. The treasurer of the city of Boston shall from time to time, at the request of the Boston transit commission, issue and sell at public or private sale bonds of said city in excess of the issues heretofore authorized to an amount not exceeding three hundred thousand dollars. Such bonds shall be designated on their face, Rapid Transit Loan, shall be for the term of forty years, shall be registered or with coupons attached, and shall bear interest at a rate not exceeding four per cent. per annum, payable semi-annually, as said treasurer shall determine, and shall not be included in determining the legal limit of indebtedness of the city. Said treasurer shall

¹ Accepted December 9, 1902.

apply the proceeds of said bonds to the payment of the cost and expenses of constructing the tunnel or tunnels to East Boston, as authorized by chapter five hundred of the acts of the year eighteen hundred and ninety-seven and acts in amendment thereof and in addition thereto; and as required by said act shall keep a separate account of the bonds issued and of the cost and expenses incurred in the construction of said tunnel or tunnels.

SECT. 2. This act shall take effect upon its passage.

[Approved March 31, 1903.]

1904.—CHAPTER 167.

AN ACT RELATIVE TO THE CONSTRUCTION OF A TUNNEL FOR ELEVATED CARS OR TRAINS IN THE CITY OF BOSTON.

Be it enacted, etc., as follows :

SECTION 1. S. The structure for two tracks especially adapted for elevated cars or trains for which provision is made in chapter five hundred and thirty-four of the acts of the year nineteen hundred and two, therein called the tunnel, may be located and constructed by the Boston Transit Commission northerly of the junction of Washington street and Adams square, in and through the existing subway; and in connection therewith such changes may be made within that part of said subway as may be necessary for the accommodation of surface cars; and at any time after the completion of the tunnel the commission may make such further changes in or additions to the existing subway between Adams square or Scollay square and Causeway street as may be necessary for the accommodation of surface cars. In all action hereunder the commission shall, so far as may be necessary, have all the powers conferred by the above-named act and shall be subject to the provisions of section thirteen thereof. All expenses incurred hereunder, including any charges or expenses occasioned by reason or in consequence of the laying out of the tunnel through a part of the subway as above provided, shall be deemed a part of the cost of the tunnel under said act.

Additional
location for
Washington
street tunnel.
Amended by
St. 1905, c. 460.

SECT. 2. This act shall take effect upon its passage.

[Approved March 21, 1904.]

1905.—CHAPTER 187.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO PROVIDE FUNDS FOR THE COMPLETION OF THE EAST BOSTON TUNNEL.

Be it enacted, etc., as follows :

SECTION 1. The treasurer of the city of Boston shall from time to time, at the request of the Boston transit commission, issue and sell at public or private sale bonds of said city to the

Rapid Transit
Loan.
1897, § 2.
1897, 500, § 17.

full amount authorized by chapter five hundred and forty-eight of the acts of the year eighteen hundred and ninety-four and chapter five hundred of the acts of the year eighteen hundred and ninety-seven, without the reduction provided for by chapter three hundred and forty-seven of the acts of the year eighteen hundred and ninety-seven, namely, to the amount of seven million five hundred thousand dollars, for the combined cost of the subway and of the East Boston tunnel. Such bonds shall be designated on their face, Rapid Transit Loan, shall be for the term of forty years, shall be registered or shall have coupons attached, and shall bear interest at a rate not exceeding four per cent. per annum, payable semi-annually, as said treasurer shall determine, and shall not be included in determining the statutory limit of indebtedness of the city. Said treasurer shall apply the proceeds of said bonds to the payment of the cost and expenses of constructing the tunnel or tunnels to East Boston, as authorized by chapter five hundred of the acts of the year eighteen hundred and ninety-seven and acts in amendment thereof and in addition thereto; and, as required by said act, he shall keep a separate account of the bonds issued and of the cost and expenses incurred in the construction of said tunnel or tunnels.

SECT. 2. This act shall take effect upon its passage.

[Approved March 16, 1905.]

1905. — CHAPTER 460.

AN ACT RELATIVE TO THE LOCATION OF THE TUNNEL IN THE CITY OF BOSTON PROVIDED FOR BY CHAPTER FIVE HUNDRED THIRTY-FOUR OF THE ACTS OF THE YEAR NINETEEN HUNDRED AND TWO.

Be it enacted, etc., as follows:

St. 1904, c. 167,
§ 1, amended.

Additional
location for
Washington
street.

SECTION 1. Chapter one hundred and sixty-seven of the acts of the year nineteen hundred and four is hereby amended by striking out section one and inserting in place thereof the following:— *Section 1.* The structure for two tracks especially adapted for elevated cars or trains for which provision is made in chapter five hundred and thirty-four of the acts of the year nineteen hundred and two, therein called the tunnel, may be located and constructed by the Boston Transit Commission, northerly of the junction of Washington street and Adams square, in and through the existing subway or any part or parts thereof, or in public or private lands outside thereof. When such structure is so located the commission may make such changes in or additions to the subway, by enlargements thereof or branch structures, in Washington street or in other public or private lands northerly of a line drawn east and west through said junction, as may be necessary for the accommodation of subway traffic. In all action hereunder the commission shall

have all the powers conferred by said act so far as necessary therefor, and shall be subject to the provisions of section thirteen thereof. In any case arising under said section thirteen the board shall have and may exercise any and all powers which might have been exercised by the commission. All expenses incurred hereunder, whether by way of compensation for the use of a part or parts of the subway, or for the taking of private lands for track or station purposes, or otherwise, shall be deemed a part of the cost of the tunnel under said act.

SECT. 2. This act shall take effect upon its passage.

[*Approved May 25, 1905.*]

1906. — CHAPTER 213.

AN ACT TO EXTEND THE TERM OF OFFICE OF THE MEMBERS OF THE BOSTON TRANSIT COMMISSION.

Be it enacted, etc., as follows :

SECTION 1. The term of office of the members of the Boston transit commission is hereby extended for three years from the first day of July in the year nineteen hundred and six.

Extension of term of Boston Transit commission.

SECT. 2. The powers, duties and compensation of said commission during said term of three years shall be the same as are specified in chapter five hundred and forty-eight of the acts of the year eighteen hundred and ninety-four and in acts in amendment thereof or in addition thereto; and any vacancy occurring in said commission shall be filled in the manner provided in said chapter five hundred and forty-eight. Said compensation and the expenses incurred by said commission shall be paid as provided in said chapter five hundred and forty-eight and in acts in amendment thereof or in addition thereto.

Powers, duties and compensation of commission.

SECT. 3. This act shall take effect upon its passage.

[*Approved March 30, 1906.*]

1906. — CHAPTER 520.

AN ACT TO AUTHORIZE THE BOSTON ELEVATED RAILWAY COMPANY TO CONSTRUCT A SUBWAY OR SUBWAYS IN THE CITY OF CAMBRIDGE AND TO PROVIDE FOR CONNECTION THEREOF WITH THE RAILWAY SYSTEM IN THE CITY OF BOSTON.

Be it enacted, etc., as follows :

SECTION. 1. The Boston Elevated Railway Company, hereinafter called the company, which term shall be deemed to include its successors and assigns but shall not include any construction company, may construct in the city of Cambridge, hereinafter called the city, under the supervision of the board of railroad commissioners, hereinafter called the board, to the extent here-

Construction of Main street subway, Cambridge, authorized. 1894, 548, § 1.

inafter provided, a subway or subways, hereinafter called the Main street subway, of sufficient size for two railway tracks, and adapted to the running of elevated railway trains and surface cars therein, with approaches, entrances, sidings, stations, inclines, cuts, loops, connections and other suitable appurtenances therefor, all hereinafter called appurtenances (which term shall not include terminals), between such point or points in Main street at or near the westerly abutment of Cambridge bridge, or in, or in the vicinity of, Kendall square, as may be suitable for connection with elevated railway and surface railway tracks, in and under Main street, Massachusetts avenue, including Quincy square, Harvard square, Brattle street and Brattle square, and thence westerly by suitable inclines and approaches to a connection with surface tracks in Mount Auburn street at or near Story street; and, at its option, from Brattle square to and under Eliot square and Eliot street at or near Murray street, and thence by suitable inclines and approaches to a connection with surface tracks and terminals; and from Harvard square northerly in and under Massachusetts avenue, and thence by suitable inclines and approaches to and through the westerly portion of the two small commons situated between Massachusetts avenue and Peabody street to a connection with surface tracks in Massachusetts avenue; leaving unoccupied sufficient space beneath the surface of Harvard square for a terminal station for the Cambridge street subway hereinafter referred to; and may operate and maintain the same for the running of railway trains and surface cars and other incidental uses in connection therewith. The city may, and upon request of the company shall, discontinue that part of the highway which lies between the two small commons.

Entry upon
lands for
investigations,
surveys, etc.,
authorized.

SECT. 2. Upon the acceptance of this act by the company, as hereinafter provided, the company may enter upon any lands, so far as may be necessary to make preliminary investigations, surveys and plans, and may place and maintain marks therein, make borings and excavations, and do all other acts necessary for such investigations and surveys.

Filing and
approval of
plans before
construction.

SECT. 3. The company shall not begin the work of construction of the Main street subway until it has filed in the office of the city engineer, within twelve months after its acceptance of this act, a plan showing the proposed route or location thereof and the general form and method of construction, with the location of proposed tracks and stations and approaches; nor until such plan shall have been submitted to the mayor for approval. Any such plan may be amended or altered at any time by a new plan. After thirty days from the filing thereof and whether the mayor has or has not approved such plan, the company shall apply to the board, which, after such notice and hearing as it deems proper, shall approve such plan or alter the same in such manner as it may deem necessary. The city may employ a competent engineer at the expense of the company with whom to consult in reference to such plan and the con-

struction of the subway or subways herein authorized. The company shall not begin the work of construction of any subway under or across the Grand Junction branch of the Boston and Albany railroad until the grade and elevation of such subway at such crossing shall have been approved by the board, after due hearing.

SECT. 4. The company may take by purchase or otherwise for the subway purposes of this act, outside the limits of public ways, parks or other public lands, any lands in fee, including the buildings thereon, and any easements or limited estates or rights in lands, including the right to go under or above the surface thereof or through or under buildings or parts of buildings thereon, which it may deem necessary therefor; and any taking under this act in fee or otherwise may be made whether the lands taken or affected are held by title derived under eminent domain or otherwise. A taking or purchase of an easement or limited estate or right in a given parcel of real estate, whether such parcel consists of unimproved land or of land and buildings, may be confined to a part or section of such parcel, fixed by planes of division or otherwise, below, above or at the surface of the soil, and in such case no taking need be made of other parts or sections thereof except of such easements therein, if any, as the company may deem necessary. Except as otherwise provided herein, the company may locate and construct the subways herein provided for and their appurtenances wherever it deems best within the limits herein prescribed, or, for the purpose of obtaining the most advantageous alignments, curves and grades, with the approval of the board, in and under other public or private lands adjacent or near to the routes herein defined. For the purposes of this act and within the limits herein prescribed, public ways and parks and the lands over which the same are laid out, or other public lands, may be used without compensation for such use, with the same rights and immunities as the public would have in making the same use thereof.

Taking of lands, easements, etc., for subway purposes.

SECT. 5. The company may take by purchase or otherwise such lands in fee or such easements or rights in lands as may be necessary or desirable to effect such connection or junction as it may deem suitable between the subway or subways constructed under this act and any elevated or surface railway tracks: *provided, however*, that the method of any such connection or junction which would exclude other public travel from any public way or parkway or part thereof, except at the terminal points of the subway or subways, shall be subject to the approval of the board.

Taking of lands, etc., for railway connections or junctions.

SECT. 6. At any time before or after the completion of any subway or subways constructed under this act, the company may purchase or may take, in the manner prescribed by this act for the taking of lands for its subway purposes, any lands in fee with the buildings thereon, or easements or limited estates or rights in land, necessary or convenient for terminals or for

Taking of lands, etc., for terminals or station purposes.

station purposes or for any alterations approved by the board in the subways or their appurtenances aforesaid. For all purposes of the construction, connection, equipment, maintenance and operation of such subways and their appurtenances, so far as may be necessary therefor, the company shall have and may exercise any powers conferred upon it by this act and by chapter five hundred and forty-eight of the acts of the year eighteen hundred and ninety-four and chapter five hundred of the acts of the year eighteen hundred and ninety-seven.

Record of takings.

SECT. 7. To make any taking for subway purposes by right of eminent domain the company shall cause to be recorded in the registry of deeds for the southern district of the county of Middlesex a description of the lands, easements, estates or rights taken, as certain as is required in a common conveyance of land, with a statement that the same are taken for subway purposes, under the authority of this act, signed by a majority of its directors; and the lands, easements, estates or rights so described shall thereupon be taken for such purposes. The company shall at the same time give notice of such taking to the owner of the property taken, if known, but want of such notice shall not affect the validity of the taking, nor extend the time for proceedings for damages.

Payment of damages or assessment thereof by a jury.

SECT. 8. The company shall pay all damages to or for property taken or injured by it in any work done in or in connection with any subway construction under authority of this act, except that no damages shall be payable in respect of the use of public ways or parks or the lands over which the same are laid out, or other public lands, and may agree with any owner of such property upon the amount to be paid as compensation or damages therefor; and if the parties do not agree the same may be determined by a jury in the superior court for the county of Middlesex on petition of such owner against the company, filed in the clerk's office before expiration of two years from the time when work done under the authority of this act is actually begun in front of any property affected thereby, or from the time of the injury to any property; and judgment shall be entered upon the verdict of such jury, and costs shall be taxed and execution issued in favor of the prevailing party as in other civil cases. The provisions of sections seventeen to twenty-five, inclusive, of chapter forty-eight of the Revised Laws, relating to procedure in case of damage to estates in which several parties have different or several interests, shall apply to proceedings in such cases under this act. The company shall indemnify the city against all liability for damages arising out of the work herein provided for, upon notice of any claim therefor and opportunity to defend against the same.

Sale, removal or lease of lands not needed and disposition of proceeds.

SECT. 9. Whenever any lands or other property of the company acquired for subway purposes under this act cease to be needed for such purposes, the company may sell the same, and may at any time sell or remove any buildings thereon; or it may lease any such lands, buildings or interests in lands or other

property; and may sell any surplus materials from excavations. The proceeds of such sales and leases, and the fair valuation of such lands or other property not sold, as agreed upon by the city and the company, or in case of disagreement as determined by the board, shall be deducted from the cost to be paid by the city as hereinafter provided.

SECT. 10. The mayor may, and upon the written request of the company shall, order the temporary or permanent removal or relocation of any surface tracks other than the tracks of a steam railroad, or of any conduits, pipes, wires, poles or other property of any person or corporation except the city or the company, which the company deems to interfere with the construction or operation of the subway or subways constructed under this act, and at the same time the city shall grant new locations for any such structures previously having locations. Such order of the mayor, to the extent specified therein, shall be deemed a revocation of the former right or license to maintain such surface tracks, conduits, wires, pipes, poles or other property, and the owner of any such structures in public ways or lands shall comply with such order without expense to the company. If the owner shall fail to comply with such order within a reasonable time to be fixed therein, the company may remove such surface tracks, conduits, pipes, wires, poles or other property, and may relocate and reconstruct the same, and the cost of such removal, relocation and reconstruction shall be repaid to the company by the owner: *provided, however*, that the removal, relocation and reconstruction of gas pipes and telephone or electric lighting conduits or cables shall be done by the company, the owner paying for any new material required in place of the old, and the cost of the work, so far as it forms part of the cost of any subway, shall be repaid by the owner to the city upon purchase of such subway by the city under section twenty-eight hereof, with such interest, if any, as the city may thereby be required to pay the company thereon. No such discontinuance, removal or relocation shall entitle the owner of the property thus affected to any damages on account thereof. The removal and relocation of any property of the commonwealth shall be subject to the approval of the public authorities having charge thereof, or of the board, and at the expense of the company. Any gas or electric lighting company may shut off the gas or current from any pipes or wires affected by any action done hereunder, when and so far as may be necessary to avoid the escape or explosion of gas or other public danger. Temporary locations shall be granted, on request of the company, for any surface tracks owned or operated by it; and as soon as the state of the work permits the company may restore the same to the original locations as nearly as may be. The company may remove any poles, wires, pipes, conduits, sewers, drains or other structures of the city, so far as the work may require, on condition that the same shall be replaced at the expense of the company in a condition, so far as may be, as serviceable as their condition before such

Removal or relocation of surface tracks, conduits, pipes, wires, etc.

removal, using such new material as may be necessary, and in such place and manner as the duly authorized city officers shall direct or approve.

Regulations as to disposition of excavated material.

SECT. 11. Whenever the company shall make an excavation in any public way or park or other public lands, it shall be upon condition that, if so directed by the mayor, it shall deliver such part of the surplus materials taken from such excavation as it does not sell, at such point or points in the city as he may direct, within two miles from the place of such excavation, which materials may be conveyed upon street railway tracks on locations then existing or temporary locations which the city upon request of the company shall grant therefor. The company shall comply with all rules, regulations and ordinances of the city relating to obstruction or excavation of any ways or public lands, so far as the same are reasonably applicable to the work in the opinion of the board, and shall at its own expense restore the surface thereof as soon as practicable to a condition as good as its former condition.

Restoration of surface.

Work so to be done as not to interfere with travel.

SECT. 12. All subway work done under this act in or under any public way in the city shall be conducted, so far as practicable, in such manner as to leave such way, or a reasonable part thereof, open for travel between the hours of seven in the forenoon and six in the afternoon of each secular day, except public holidays: *provided, however,* that any such way may, if the company deems necessary, be closed to public travel for distances not exceeding one third of a mile each along the line of construction.

Location of subway stations.

SECT. 13. Subject to the approval of the mayor, the company may locate subway stations at convenient points, with suitable exits and approaches to and from the streets and such stations; but exits and approaches, except platforms and approaches thereto from buildings, shall not be located in any street less than sixty feet in width.

Notice to company of determinations by city officers. Revision of determination.

SECT. 14. The company shall be entitled to written notice of the proposed determination by the city, or by any officer thereof, of any question arising in the course of the subway work herein provided for, which it or he is authorized by this act to determine, and to confer with the city or such officer thereon; and if such determination when made is not satisfactory to the company, it may within seven days after receiving written notice thereof, to be given after such determination, apply to the board for a revision thereof, and thereupon the board may consider and finally determine such question.

Placing of wires in subways.

SECT. 15. Any person or corporation using or authorized to use wires along the route of such subway or subways may place the same therein, in such manner and upon such terms, as to compensation and otherwise, as may be agreed upon with the company; except that no contract therefor shall extend beyond the period of twenty years from the opening for use of the subway to which it relates, or beyond the purchase thereof by the city as hereinafter provided.

SECT. 16. The company shall file with the auditor of accounts of the city correct copies of all bills or accounts of the cost of construction of the subway or subways herein provided for, and also all sums credited, as the work proceeds.

Filing with city auditor cost of construction.

SECT. 17. Upon completion of any subway herein provided for, and before the same shall be opened for public use, it shall be examined by the board, and if it appears that all laws relating to its construction have been complied with and that the subway is in safe condition for operation the board shall give to the company a certificate to that effect, which shall be filed in the office of the secretary of the commonwealth; and thereupon the company shall be authorized to open such subway for public use.

Certificate of operation.

SECT. 18. At any time within four years after the opening for use of the Main street subway, the company may begin construction in the city of a subway or subways to be called the River street subway, of sufficient size for two railway tracks and adapted to the running of elevated railway trains and surface cars therein, with suitable appurtenances therefor, as defined in section one of this act, from a point in the Main street subway at or near the junction of Massachusetts avenue, formerly called Main street, and River street or Central square; thence to, in and under River street to the northerly line of Putnam avenue, or to a point at or near the northerly abutment of the Cambridge street bridge, in that part of Boston called Brighton, or to any other point between said northerly line of Putnam avenue and the northerly abutment of said bridge, there to connect with elevated railway or surface railway tracks, in such manner, not obstructing travel in any park or parkway, as the company may determine; and when built may maintain and operate the same for the running of elevated railway trains and surface cars and other incidental uses in connection therewith.

River street subway.
1894, 548, § 6.

SECT. 19. At any time within four years after the opening for use of the Main street subway, the company may begin construction in the city of a like subway or subways, to be called the Cambridge street subway, with like appurtenances, between a point in Cambridge street in the vicinity of Lechmere square, or in Bridge street, or in or easterly of Lechmere square, or in private lands adjacent or near to such streets or square, convenient for connection by a suitable incline between such subway and the elevated railway which the company may construct upon the location described in section twenty-one of this act, in and under such private lands, Bridge street, Lechmere square, Cambridge street, Peabody street, and any intervening ways or lands, and Harvard square; and may also begin construction of a like subway, to be called the Webster avenue subway, with like appurtenances, from Cambridge street in and under Webster avenue to a suitable connection with elevated railway or surface railway tracks in Cambridge or Somerville, at or as near as practicable to the line between said cities; and when built may maintain and operate the same for the running of

Construction of Cambridge street and Webster avenue subways authorized.
1894, 548, § 6.

elevated railway trains and surface cars and other incidental uses in connection therewith. The city, at the request and expense of the company, shall widen such part of Cambridge street or Bridge street, or both, to such extent as the company may deem necessary to permit the construction of the subway or open cut therein, or to permit suitable connection between the company's elevated railway structure and surface railway tracks in such streets and square. The space available for public surface travel in such streets and square shall not be diminished so far as to interfere substantially with such travel. All expenses of any street widening required to obviate such interference shall be borne by the company. Said cities or either of them may, and at the request and expense of the company shall, widen Webster avenue, so far as the company may deem necessary for the work herein provided for. If the company shall not have begun to construct the Cambridge street subway within four years after the opening for use of the Main street subway, the city shall have the right, and is hereby authorized, to construct the same provided it begins such construction within one year after the expiration of such four years. If the city constructs such subway, it shall have the same rights therein as in case of purchase thereof under this act. Nothing in this act shall be deemed to require the company to construct the River street, Cambridge street or Webster avenue subways or either of them, but the construction of the River street and Webster avenue subways, if built, shall be completed within two years, and of the Cambridge street subway, if built by the company, within four years, after the beginning of the construction thereof.

Provisions of law applicable to Cambridge and River street and Webster avenue subways.

SECT. 20. Any and all of such subways shall be constructed upon and under the same terms, conditions and provisions, except as to time of construction, and with the same rights, powers and privileges in the construction, maintenance and operation thereof, which rights, powers and privileges are hereby conferred for such purpose, and shall be held by the company by and upon the same tenure and with the same rights, privileges and immunities as are herein provided for and concerning the Main street subway, and subject to the right of purchase by the city as hereinafter conferred.

Elevated railway route from Boston to East Cambridge.
1894, 548, § 6.
1902, 534, § 1.

SECT. 21. Within six months after its acceptance of this act the company shall apply for an elevated railway route in the cities of Cambridge and Boston, over its locations heretofore granted or locations hereby granted, between a point in or easterly of Lechmere square, in Cambridge, thence in and over said square and Bridge street, or private lands adjacent or near thereto, and over that part of the lands owned or leased by the Boston and Maine Railroad contiguous to Bridge street and over Prison Point street: *provided, however*, that the elevated railway approaching and over such railroad lands shall be so constructed as to afford clear head-room of not less than fourteen feet; thence to and over the approaches to, if necessary, and the

down-stream slope and the waterway of the new Charles river dam now under construction in place of the old Craigie bridge, such location over the dam and its approaches to be a substitute for, and to be held by the same tenure as, the location on the bridge under chapter five hundred and forty-eight of the acts of the year eighteen hundred and ninety-four, to and over the approaches to such dam in Boston, if necessary, thence by locations existing in Leverett street, Brighton street, Lowell street and Causeway street under the provisions of chapter five hundred and forty-eight of the acts of the year eighteen hundred and ninety-four and chapter five hundred of the acts of the year eighteen hundred and ninety-seven to such point in Causeway street as shall be, in the opinion of the board, suitable for connection with the existing subway and any additions thereto, and with the Washington street tunnel now under construction, and with its existing elevated lines, or, for the purpose of avoiding sharp or unsuitable curves, in and over such other intervening public or private ways or lands as the mayor and aldermen, under the power to vary or alter locations conferred by said chapter five hundred and forty-eight, or the board, may approve; thence, by such connections as shall be approved by the board, to said subway or additions and said Washington street tunnel and said existing elevated lines; or, as an alternative to that part of the route between the dam or its approaches and Brighton street or Leverett street, to and over that part of the lands owned or leased by said railroad corporation in Boston contiguous to Leverett street, there providing for the same head-room as aforesaid. Nothing in this act shall be deemed to authorize an elevated railway in any part of Leverett street between Brighton and Causeway streets. The company shall begin construction of its elevated railway upon and over such route within six months, and shall complete the same within three and one-half years, after it is authorized to begin construction thereof. The company is hereby authorized to make connection by a suitable incline between its elevated railway structure and surface railway tracks in Cambridge street, in the vicinity of Lechmere square, Bridge street, or in or easterly of Lechmere square, in Cambridge, or in and upon private lands adjacent or near to such streets and square, which the company may take or purchase for such purpose, which may also be used, so far as the same are available, for the purposes of the subway provided for in section nineteen of this act, if built. The design of so much of the elevated railway structure as passes over the down-stream slope of the new dam, in respect of its architectural features, shall be submitted to the Charles river basin commission for its approval, subject to an appeal by the company to the board, which shall finally determine the question. The method of attachment of the elevated railway structure to the dam shall be subject to approval by said commission. The procedure prescribed by section thirteen of said chapter five hundred in respect of the application for and

approval of the route shall apply, so far as such approval is required, to the routes designated in this section and in section twenty-three of this act. In the construction, maintenance and operation of the elevated railways provided for by this section and by said section twenty-three the company shall have the rights, powers and privileges and be subject to the duties, restrictions and liabilities prescribed in respect of its elevated lines and structures by sections three, seven to nine inclusive, eleven, twelve, fifteen and eighteen of said chapter five hundred and forty-eight, and sections one, two, six, eight to ten inclusive, twenty and twenty-one of said chapter five hundred; and such railways when constructed, and their locations, shall be held by the company by and upon the tenure prescribed in the first clause of section nineteen of said chapter five hundred, ending with the words "Public Statutes", and with the same rights, privileges and immunities therein as are provided in either of said acts in respect of its elevated lines or structures. The construction of any elevated railway upon any location mentioned in this section or in said section twenty-three shall not be taken to extend the time within which the company may construct elevated railways upon any other locations, but its other locations shall continue to be held by the company by and upon the tenure prescribed by said section nineteen of said chapter five hundred, subject however to the provisions of section thirty of this act.

Location and construction of elevated railway in Boston regulated.

SECT. 22. The location and construction of the elevated railway structure near to and over the railroad lands contiguous to Bridge and Leverett streets, as above provided, shall be such as the company and said railroad corporation may agree upon, or in case of difference as the board may determine; but no lands now owned or leased by the Boston and Maine Railroad shall be taken for the purposes of this act, or used except as herein expressly provided; and any damage sustained by reason of such use shall be estimated and recovered in the manner provided by section seven of chapter five hundred of the acts of the year eighteen hundred and ninety-seven. Upon any application to the mayor and aldermen for the approval of a route, or a location for any elevated railway structure, tracks or stations in that part of Causeway street opposite the railroad stations now owned or leased by the Boston and Maine Railroad, or in the vicinity of the railroad lands situated on Lowell or Brighton streets, the mayor and aldermen shall give public notice and a hearing, and in any and all proceedings before the mayor and aldermen or the board for the approval of a route, or a location for any elevated structure, tracks or stations in or near to the parts of Causeway, Lowell or Brighton streets, above designated, said railroad corporation shall be deemed a party in interest entitled to be heard. Said railroad corporation may apply to the board for a revision of any action of the mayor and aldermen in the nature of an approval of any such route or location within thirty days after the date thereof; and

in case any such application is made to the board by said railroad corporation, or in case any application authorized by law is made by the company to the board for the approval of a route or location which the mayor and aldermen have refused or failed to approve, the board, having in view all public interests, shall, after public notice and hearing, finally fix and determine such route or location.

SECT. 23. Section fifteen of chapter five hundred of the acts of the year eighteen hundred and ninety-seven is hereby so far amended, that the company shall not erect any elevated structure upon its elevated railway location over the new Cambridge bridge, except so far as may be necessary or convenient to make a suitable connection at the easterly terminus thereof with its elevated railway structure, if any, on the location hereinafter described, and its tenure thereof or other rights shall not be impaired by omission so to do; nor shall it be required to apply for the elevated railway route between Boston and Cambridge, described in said section fifteen, within six months after the time when such bridge is finished, nor to construct its elevated railway thereon; but in lieu thereof it is hereby authorized and required to construct and complete its elevated railway, within the time allowed for completion of the Main street subway herein provided for, upon, and over one of the routes in the city of Boston here designated, namely: (1) between Scollay square and North Russell street, or the westerly terminus of the subway authorized by section five of said chapter five hundred if extended nearer to Charles river than said street, in and through such subway if built, and thence, if such subway is not extended to such new bridge, upon and over its location granted by chapter five hundred and forty-eight of the acts of the year eighteen hundred and ninety-four, in and through Cambridge street and Charles street and in and over any intervening public or private ways or lands to such new bridge; or, (2) between the Park street subway station and a point between Pinckney and Cambridge streets or in Cambridge street or at or near such new bridge, in and through a tunnel for two railway tracks adapted to the use of elevated railway trains and surface cars, with suitable appurtenances and terminals, which the Boston transit commission is hereby authorized to construct, upon the request of the company as hereinafter provided, upon such route as the commission may determine, in and under any public or private ways or lands between such points; and thence, if such tunnel is not extended to such new bridge, upon and over a location hereby granted in, through and over such street or streets or other public or private lands as the company may deem suitable for such route, to such new bridge, or to Cambridge street and thence over the location (1) aforesaid to such new bridge; and, from the westerly terminus of either route, upon its location across such new bridge and in Main street in Cambridge to a connection with the Main street subway.

Amendment of
St. 1897, c. 500,
§ 15.
Change of
locations.
1894, 548, § 6.
1897, 500, § 6.

Determination
by commission
of which
structure shall
be constructed.

Within six months after its acceptance of this act the company shall request the commission to construct such subway or such tunnel, and the commission shall thereupon determine which of such structures shall be constructed, and shall give the company written notice of such determination; and if the company is dissatisfied therewith, it may within thirty days after such notice apply to the board for a revision thereof, and thereupon the board may consider and finally determine the question; and the commission shall proceed, as soon as may be, with the work of construction.

If the subway hereinabove referred to is constructed, it shall be constructed, except as otherwise expressly provided herein, in the manner and under the terms and conditions prescribed by said section five of said chapter five hundred.

Terms of pay-
ment for con-
struction.

If the tunnel hereinabove described is constructed, it shall, except as otherwise expressly provided herein, be constructed and paid for upon and under the same terms, conditions and provisions, so far as the same are applicable, and with the same rights, powers and privileges in respect of the construction thereof, which rights, powers and privileges are hereby conferred for such purpose upon the commission, the board, the city of Boston and its treasurer, the company, and other public officers or parties in interest respectively, including any persons sustaining damages by the taking of or injury to property by the commission under authority hereof, as are prescribed by chapter five hundred and thirty-four of the acts of the year nineteen hundred and two for construction of the tunnel therein provided for; including the rights and powers conferred by section thirteen of said act, which section shall also apply to the location of the tunnel and to the construction of the subway referred to in this section if that is constructed.

Taking of
land for
widening of
ways.

If the construction of the subway or tunnel upon the route determined upon requires such a permanent cut in any street as to necessitate the widening thereof, or if the construction in connection with the subway or tunnel of an incline from the elevated railway structure to the surface in any street necessitates the widening thereof, the commission may take or purchase lands for such necessary widening, which shall not exceed thirty feet on each side nor extend less than thirty nor more than one hundred feet beyond the ends of such open cut or incline, and may construct a highway thereon; and the cost thereof, including all compensation or damages for property taken or purchased therefor, shall be repaid by the company to the city of Boston, with interest at four per cent. per annum from the time of expenditure to the time of repayment.

Method of
tunnel con-
struction
under Com-
mon.

Any tunnel construction under or within one hundred feet from Boston common shall be, so far as practicable, water-tight, and the work shall so be done as to avoid the draining of moisture from the surrounding soil or other injury to trees. No additional structures shall be placed above the surface of the common, but in connection with the construction of the tunnel

the commission may enlarge, by not more than one third, the width of the existing entrances to and exits from the Park street subway station, and the cost thereof shall be deemed and treated as part of the cost of the tunnel.

Upon or before completion of the work the commission shall execute with the company, in the name of the city of Boston, a contract for the sole and exclusive use of the subway or tunnel and its appurtenances and terminals by the company, for the running of its elevated trains and surface cars therein and for other purposes, for a term of not less than twenty years from its opening for use, at an annual rental equal to four and seven-eighths per cent of its net cost, including therein interest at four per cent. per annum on the debt incurred in construction prior to the beginning of the use, and containing in substance the additional car tolls compensation clause, and the provisions relating to the city's police and fire-alarm wires and apparatus, of the subway lease dated December seventh, eighteen hundred and ninety-six, and such other provisions and conditions, following the form of the lease of the Washington street tunnel dated September twenty-fifth, nineteen hundred and two, so far as the same are applicable, as the commission and the company may agree upon, or in case of difference as the board may determine.

Contract for use of subway or tunnel; terms and conditions.

SECT. 24. The company may from time to time, subject to the approval of the board, in the manner and subject to the requirements prescribed by law, issue and dispose of such additional amounts of its capital stock or bonds, or of either at its option, as may be necessary to meet and pay the cost of construction, connection and equipment for use and operation of the subway or subways and elevated railways which it is authorized by this act to construct, and their appurtenances and terminals, the cost of acquisition of any land or lands, and all other expenditures made or incurred by the company under authority of this act. If either of the subways herein authorized is acquired by the city as herein provided, the amount received by the company therefor shall be applied, with the approval of the board given after public hearing, to the purchase or payment and cancellation of obligations of the company; or with like approval to the purchase and cancellation of shares or other reduction of its capital stock, or with like approval to any purposes for which said board might approve the issue of new capital stock or bonds.

Issue and disposition of additional stock and bonds. 1894, 548, § 2.

SECT. 25. The provisions of the compensation clause of section ten of chapter five hundred of the acts of the year eighteen hundred and ninety-seven, shall include the additional track mileage of the company constructed under this act, for the purpose of the distribution of the tax thereby imposed.

Additional track mileage to be included in compensation clause. 1897, 500, § 10.

SECT. 26. The subway or subways constructed by the company under this act with their appurtenances and equipment, shall be, and be considered, for the purposes of regulation by the board and for the purposes of section four of chapter five hundred and forty-eight of the acts of the year eighteen hun-

Subways to be a part of elevated railway. 1894, 548, § 4.

Taxes and
assessments.

dred and ninety-four as now amended, a part of the elevated railway of the company. No taxes or excises not in fact imposed upon street railways at the time of the passage of chapter five hundred of the acts of the year eighteen hundred and ninety-seven, nor any other burden, duty or obligation which is not at the same time imposed by general law on all street railway companies, shall be imposed upon or in respect of such subway or subways or their appurtenances or equipment during the period of twenty-five years after the passage of said chapter five hundred: *provided, however*, that the company shall continue to be annually assessed and to pay taxes then or thereafter imposed by general law in the same manner as though it were a street railway company, as provided in section ten of said act, and to pay the compensation tax imposed by said section ten; and such subway or subways and their appurtenances, equipment and locations and the right to maintain the same shall be held by the company by and with the same tenure and with the same rights, privileges and immunities therein as are provided in respect of its elevated lines and structures by said chapter five hundred, and shall never be taken or purchased from the company, unless by its consent, except in the manner and on the terms prescribed in sections six and seven of chapter one hundred and eleven of the Revised Laws, or under the right of purchase conferred upon the city by section twenty-eight of this act.

Provisions of
law applicable
to equipment
and use of rail-
ways in sub-
ways.

SECT. 27. In respect to the equipment, use and operation of the railways to be constructed in such subway or subways, and transportation thereon, the company shall have all the rights, privileges and immunities and be subject to all the duties, liabilities and restrictions set forth in general or special laws now in force applicable to it, or in laws hereafter enacted applicable to it so far as the same do not impair its rights, privileges or immunities, acquired under any statute or otherwise.

Rights of city
of Cambridge
to purchase
property, etc.

SECT. 28. At any time after the expiration of twenty years from the opening for use of the Main street subway, or at any earlier time by agreement with the company, and upon the payment to it by the city of such an amount as will reimburse the company the original cost of the Main street subway and the River street subway, if the latter is then built or begun, and their appurtenances and equipment, which shall not include rolling stock, together with the cost of all additions or alterations lawfully made thereto or therein, with simple interest at seven per cent. per year on the cost paid in by its stockholders, to be computed from the time of such payment by the stockholders (but not prior to the opening for use), to the time of the purchase, in addition to interest at three and one-fourth per cent. per year on all sums expended in construction from the time of their expenditure to the time of the opening for use, deducting, however, from such interest any and all dividends declared and paid after such opening for use upon any stock issued therefor, but without interest on such dividends, and also deducting

from the purchase price such other amounts accruing from property acquired for such two subways as are provided for by section nine of this act, the title to such two subways and their appurtenances and equipment as aforesaid and additions thereto, and all rights and interest therein, shall vest exclusively in the city. This right of purchase of the city shall be in addition to the right of the commonwealth under sections six and seven of chapter one hundred and eleven of the Revised Laws, but shall not otherwise affect any rights of the commonwealth. Upon such purchase the city shall have, hold and enjoy in its private or proprietary capacity, as its own property, the subway or subways and their appurtenances and additions so acquired, and all rents, tolls, income and profits derived therefrom, and the same shall never be taken by the commonwealth except upon payment of just compensation therefor: *provided, however*, that so much of such rents, tolls, income and profits as may be necessary therefor shall be paid into the respective sinking funds for the redemption of any bonds which shall be issued by the city for such purchase and shall be used for the payment of interest thereon. At any time after the expiration of twenty years from the opening for use of the Main street subway, or at any earlier time by agreement with the company, the city may purchase the Cambridge street subway, if then built or begun, and the Webster avenue subway, if then built or begun, and their appurtenances and equipment as aforesaid, and shall purchase both or either, upon the same terms, conditions and provisions and with the same effect as is hereinabove provided for and concerning its purchase of the Main street subway.

SECT. 29. For the purpose of meeting the requirements of sections nineteen and twenty-eight of this act, the city may issue from time to time notes, bonds or scrip, in excess of the tax limit prescribed by law, designated on the face thereof Cambridge Subway Loan, to an amount not exceeding the sums required under this act, and shall use the proceeds of the same for such purpose.

Cambridge
Subway Loan.

SECT. 30. Upon acceptance of this act by the company, the elevated railway locations within the city of Cambridge granted to the company by chapter five hundred and forty-eight of the acts of the year eighteen hundred and ninety-four and chapter five hundred of the acts of the year eighteen hundred and ninety-seven, shall be revoked, except the locations following, which shall not be revocable, except as provided in the first clause of section nineteen of said chapter five hundred, ending with the words "Public Statutes", so long as the company has the right under the provisions of this act to complete the respective subways in Cambridge connecting therewith, namely: — its location from the Cambridge line upon and over the new Cambridge bridge and its approaches and Main street, to the most westerly point at which the Main street subway may terminate at its easterly end under the provisions of section one hereof; its location from the Cambridge line upon and over Cambridge

Revocation of
certain loca-
tions.
1894, 548, § 6.
1897, 500, § 3.

street bridge or a new bridge and River street, to the most northeasterly point at which the River street subway may terminate at its southwesterly end under the provisions of section eighteen hereof; its location from the Cambridge line upon and over the down-stream slope and waterway of the new Charles river dam and its approaches and thence westerly over the route described in section twenty-one of this act to the most westerly point at which the Cambridge street subway may terminate at its easterly end under the provisions of section nineteen of this act, which shall be deemed a substitute for the corresponding location granted by said chapter five hundred and forty-eight; and its location upon and over Webster avenue from the Cambridge line to the most southerly point at which the Webster avenue subway may terminate at its northerly end under the provisions of said section nineteen. The locations so revoked shall be of no further force or effect, and the company shall not without further legislative authority construct any elevated railway upon or over the same nor be subject to any penalty or forfeiture for omission so to do. So long as the right exists to complete the construction of the elevated railway upon the locations described in sections twenty-one and twenty-three, no part thereof shall be revocable, except as above provided in this section.

Enforcement
of provisions
of act.

SECT. 31. The supreme judicial or superior court, upon application of the cities of Cambridge or Boston, the company, or any other party in interest, may enforce or prevent violation of the provisions of this act, by any appropriate process.

Acceptance of
act. Time for
completing
work of con-
struction.

SECT. 32. This act shall take effect upon its acceptance by the mayor and board of aldermen of the city within one month, and by the company, by vote of its board of directors and return thereof thereafter, and within two months after its passage.¹ If so accepted, the company shall complete the work of construction of the Main street subway within four years after the final approval of the original plan required by section three. If the construction of any subway herein provided for, or the construction of the elevated railway, as provided in sections twenty-one and twenty-three hereof, is delayed by litigation, unforeseen casualty or other cause, the company may apply to the board for extension of the time therefor, and the board, upon notice to the city of Cambridge, or the city of Boston, or both if deemed necessary, and upon hearing and proof that such litigation was not collusive, or that such casualty or other cause was not due to the fault of the company, may determine what extension of the time may reasonably be allowed for completion of the subway or railway, or both, and such further time shall thereupon be allowed therefor.

[Approved June 23, 1906.]

¹ Accepted by the City of Cambridge June 28, 1906.

Accepted by the Boston Elevated Railway Company June 29, 1906.

1907. — CHAPTER 258.

AN ACT TO INCREASE THE AUTHORITY OF THE BOSTON TRANSIT COMMISSION TO TAKE BY EMINENT DOMAIN EASEMENTS OR OTHER ESTATES OR RIGHTS IN REAL ESTATE.

Be it enacted, etc., as follows :

SECTION 1. Section six of chapter five hundred and thirty-four of the acts of the year nineteen hundred and two, being "An Act to provide for the construction of additional tunnels and subways in the city of Boston," is hereby amended by inserting after the word "horizontal," in the fourteenth line, the words : — or inclined, — and by inserting after the word "division," in the fifteenth line, the words : — or by other surfaces, -- so as to read as follows : — *Section 6.* The commission may for the purposes of this act use public ways and lands without compensation therefor, and may take for the city, by purchase or otherwise, lands in fee and easements, estates and rights in land, including the right to go under the surface thereof or through or under buildings or parts of buildings thereon, and such takings in fee or otherwise may be made whether the lands taken or otherwise affected are held under or by title derived under eminent domain or otherwise. A taking under this section of an easement or other estate or right in a given parcel of real estate, whether such parcel consists of unimproved land or of land and buildings, may be confined to a portion or section of such parcel fixed by horizontal or inclined planes of division or by other surfaces below or above or at the surface of the soil, and in such case no taking need be made of upper or lower portions or sections, except of such easements therein, if any, as the commission may deem necessary. The commission, to make any taking by right of eminent domain, shall cause to be recorded in the registry of deeds for the county of Suffolk a description of the lands, easements, estates or rights to be taken, as certain as is required in a common conveyance of land, with the statement that the same are taken under authority of this act, which description and statement shall be signed by the commission; and the lands, easements, estates or rights therein described shall upon such recording be taken for and shall vest in the city. The commission shall, so far as may be practicable, notify all known owners of such takings, but the validity thereof shall not be affected by want of such notice.

St. 1902, c. 524,
§ 6, amended.

Use of public
ways and
lands. Taking
of lands,
rights, etc.

Record in
registry of
taking.

SECT. 2. This act shall take effect upon its passage.

[Approved March 29, 1907.]

1907.—CHAPTER 277.

AN ACT RELATIVE TO CLAIMS AGAINST THE BOSTON ELEVATED RAILWAY COMPANY FOR DAMAGES TO PROPERTY.

Be it enacted, etc., as follows :

Amendment of
St. 1900, c. 258,
§ 2.
1900, 258, § 2.

SECTION 1. Section two of chapter two hundred and fifty-eight of the acts of the year nineteen hundred is hereby amended by adding at the end thereof the following : — *provided, further* that the construction, addition or alteration by the Boston Elevated Railway Company of branches, spurs, sidings, turnouts, connections, deflections, switches, extensions and loops, as provided for in section seven of chapter five hundred and forty-eight of the acts of the year eighteen hundred and ninety-four, and the location, construction, maintenance, operation, addition to and modification or change of stations, as provided for in section ten of said chapter five hundred and forty-eight, as amended by chapter five hundred of the acts of the year eighteen hundred and ninety-seven, if such branches, additions or other structures were not contained in the original plans heretofore confirmed by the board of railroad commissioners, under which plans its elevated railway has been constructed, shall be deemed an additional servitude and shall entitle lessees, mortgagees and other parties having an estate in any public or private way or in any premises which abut thereon, and who are damaged by reason of such branches, additions or other structures, or changes or modifications, to recover reasonable compensation therefor. Any person so damaged may at any time within three years after the completion of the construction of such branches, additions or other structures, or changes or modifications, in front of his premises, file in the clerk's office of the superior court for the county where his said premises lie a petition setting forth his claim, and the amount thereof, against the Boston Elevated Railway Company. The provisions of sections eight and nine of chapter five hundred and forty-eight of the acts of the year eighteen hundred and ninety-four, and of sections seventeen to twenty-five, inclusive, and section one hundred and fourteen of chapter forty-eight of the Revised Laws relating to procedure in case of damages to estates in which several parties have different or several interests, so far as not inconsistent herewith, shall govern proceedings taken under this act.

SECT. 2. This act shall take effect upon its passage.

[Approved April 6, 1907.]

1907.—CHAPTER 497.

AN ACT TO AUTHORIZE THE BOSTON ELEVATED RAILWAY COMPANY TO CONSTRUCT AN ELEVATED RAILWAY FROM SULLIVAN SQUARE IN THE CITY OF BOSTON THROUGH THE CITIES OF EVERETT AND MALDEN.

Be it enacted, etc., as follows :

SECTION 1. The Boston Elevated Railway Company, hereinafter called the company, which term shall be deemed to include its successors and assigns, may construct lines of elevated railway, according to such plans or systems as the board of railroad commissioners, hereinafter called the board, may approve, to be operated by electricity or other motive power except steam, upon the following location, and may equip, maintain and operate engines, motors, trains and cars thereon, to wit:—Beginning at a point in Main street, in Alford street or in land of the company near the existing Sullivan square terminal station, in that part of Boston formerly called Charlestown; thence through or across public or private ways or lands between Alford street and the tracks of the western division of the Boston and Maine Railroad, or through or across Main and Alford streets, or in part through or over the southwesterly corner of Charlestown playground and within and not more than fifty feet distant from the intersection of the northeasterly side of Main street with the southeasterly side of Alford street, and through or across either of said streets, to Mystic river; thence through Alford street and over Malden bridge and through or across Alford street, through or across Broadway to a point opposite Mystic street, and through or across public or private ways or lands in Boston and Everett between Alford street in Boston and the westerly line of Broadway and Main street on the east and the Malden river on the west; or over Mystic river and through or across public or private ways or lands in Boston and Everett between Alford, Broadway and Main street on the east and Malden river on the west, to the Malden line; thence through or across public or private ways or lands between the westerly line of Main street in Malden and the tracks of the western division of the Boston and Maine Railroad, to such point or points in Malden, southerly of Pleasant street, as may be convenient for terminals.

Construction of elevated railway through cities of Everett and Malden.
1894, 548, § 6.

Upon private lands, the said elevated railway may be constructed, so far as the company may deem necessary or desirable, near or upon the surface of the ground, with the approval of the board: *provided, however*, that no public street shall be crossed at grade.

The company may construct such terminals, branches, spurs, sidings, turnouts, connections, deflections, switches, extensions and other structures, and such loop lines, in connection with and within the location herein granted, through or across such

streets or ways, or private lands, as may be necessary or convenient to turn its trains or to reverse the direction thereof, or to make connections with surface car lines, or for other purposes authorized by this act or by its charter, and may make such convenient changes, extensions and relocations of surface lines owned or controlled by the company, by elevated structure or otherwise, over public or private ways or lands, as may be approved by the board; all of which, with the stations, are hereinafter called appurtenances.

It may locate and construct stations at convenient points, with suitable exits and approaches to and from the streets and stations, but the same, excepting platforms and approaches thereto from buildings, shall not be located in any public way or place unless such location is approved by the mayor and aldermen or by the board. Before constructing its railroad upon any route granted to it, and before constructing any station in any public way or place, the company shall prepare and file with the mayor of the city in which the route or station is located plans showing the form and method of construction proposed, for his examination and approval as to architectural appearance and obstruction to light and air; and he shall approve or disapprove the same in writing; and if the plans are disapproved by him the company may appeal to the board, who shall decide the matter.

Taking in fee
of public or
private lands.

SECT. 2. The company may lease, purchase or take the fee of public or private lands, except lands of the commonwealth and of the Boston and Maine Railroad, for the purpose of constructing its railway or terminals, buildings, shops, stations, engine and car houses, and connections with surface railways, and for any purpose necessary for the construction or convenient use by the company or the public of its said railway, and for any purpose authorized by this act or by its charter. To make any taking by right of eminent domain, the company shall cause to be recorded in the registry of deeds for the county in which the land is situated a description of the land taken, as certain as is required in a common conveyance of land, with a statement that the same is taken under authority of this act, signed by a majority of its directors, and the land so described shall, upon such recording, be taken. The company shall at the same time give notice of such taking to the owner of the land taken, if known, but want of such notice shall not affect the validity of the taking, nor extend the time for proceedings for damages.

Payment of
damages or
assessment
thereof by a
jury.

The company shall pay all damages occasioned by the taking of such land, and may agree with any owner of such land upon the amount to be paid as compensation or damages therefor, and if the parties do not agree, the same may be determined by a jury in the superior court for the county in which the land is situated, on petition of the owner or the company filed in the clerk's office before the expiration of two years from the recording of the taking, and judgment shall be entered upon

the verdict of the jury, and costs shall be taxed and execution issued in favor of the prevailing party as in other civil cases. The provisions of sections seventeen to twenty-five, inclusive, and of section one hundred and fourteen of chapter forty-eight of the Revised Laws relating to procedure in case of damage to estates in which several parties have different or several interests, shall apply to proceedings in such cases under this act.

The company shall indemnify the cities against all liability for damages arising out of the work herein provided for, upon notice of any claim therefor and opportunity to defend against the same.

SECT. 3. Wherever the route upon which the company is authorized to construct and operate its elevated railway crosses the location or tracks of any railroad company, or the land of the commonwealth, or tide waters, the crossing shall be made in such manner, and the method of construction shall be such as may be agreed upon between the directors of such railroad company or the public board or officer having general control of such land or waters and the directors of the company, and if the parties are unable to agree as to the manner of crossing or method of construction at such point, the same shall be determined by the board, upon application of either party; and in case any railroad company or the commonwealth sustains any damage by reason of such crossing, the same shall be estimated and recovered in the manner provided in section two of this act.

Methods of construction across railroads, lands of commonwealth or tide waters.

SECT. 4. Within one year after its acceptance of this act, as hereinafter provided, the company shall apply to the board of aldermen of the cities of Boston, Everett and Malden for an elevated railway route over the location herein granted, or in and over such other intervening public or private ways or lands as the mayor and aldermen may approve. If the route so applied for is not approved by the mayor and aldermen within sixty days after the application therefor, the company shall within thirty days after the expiration of said sixty days apply to the board for such approval, and thereupon the board, having in view all public interests shall, after public notice and hearing, finally fix and determine a route. The company shall begin construction of its elevated railway over such route within six months and shall complete the same within three and one half years after it is authorized to begin construction thereof. In the construction, maintenance and operation of the elevated railway and appurtenances provided for by this act, the company shall have the rights, powers and privileges, and be subject to the duties, restrictions and liabilities prescribed in respect of its elevated lines and structures by sections eight, nine, twelve, fifteen and eighteen of chapter five hundred and forty-eight of the acts of the year eighteen hundred and ninety-four and sections one, six, eight, ten, sixteen and twenty-one of chapter five hundred of the acts of the year eighteen hundred and ninety-seven,

Method of fixing and determining route.

Time for beginning construction of railway.

and such railway and appurtenances, when constructed, and its location shall be held by the company by and upon the tenure prescribed in the first clause of section nineteen of said chapter five hundred ending with the words "Public Statutes", and with the same rights, privileges and immunities therein as are provided in either of said acts in respect of its elevated lines or structures: *provided, however*, that, if by reason of the construction of said elevated structure, it becomes necessary to reconstruct the bridge on Alford street, called Malden bridge, the city of Boston shall not be liable for any part of the expense therefor.

Issue and disposition of stock and bonds.

SECT. 5. The company may from time to time in the manner and subject to the requirements prescribed by law, issue and dispose of such amounts of its capital stock or bonds, or of either at its option, in addition to amounts heretofore authorized, as may be necessary to meet and pay the cost of construction, connection and equipment for use and operation of the railway which it is authorized by this act to construct, and its appurtenances, and the cost of acquisition of any land or lands, and all other expenditures made or incurred by the company under authority of this act.

Acceptance of act. Extension of time for construction.

SECT. 6. This act shall take effect upon its acceptance by the board of aldermen, approved by the mayor, of the cities of Everett and Malden, respectively, within one month, and by the company by vote of its board of directors and return thereof, filed in the office of the secretary of the commonwealth within two months after its passage.¹ If the construction of said railway is delayed by litigation, unforeseen casualty or other cause, the company may apply to the board for extension of the time therefor, and the board, upon notice to the cities of Everett and Malden, and upon hearing and proof that such litigation is not collusive or that such casualty or other cause was not due to the fault of the company, may determine what extension of the time may reasonably be allowed for the completion of the railway, and such further time shall thereupon be allowed therefor.

Damages for construction and operation of elevated railway.

SECT. 7. The owners, lessees, mortgagees, and other persons having an estate in any land or premises abutting on any land or rights of way over private land acquired by the company under the provisions of this act, upon which an elevated structure is erected, shall be entitled to reasonable compensation for all damage suffered by them by reason of the location, construction, maintenance, and operation of said railway. Any such person may, at any time within three years after the construction of such railway, file in the clerk's office of the superior court for the county where his said premises lie a petition setting forth his claim against the said corporation.

He shall give the said corporation fourteen days' notice of the filing of such petition, and an answer thereto shall be filed

¹Accepted by the City of Everett June 27, 1907, by the City of Malden July 9, 1907, and by the Boston Elevated Railway Company July 11, 1907.

by the corporation within thirty days from the return day of such notice. Any such petition shall be heard before a jury, if either party claims such right at the time of the filing of the petition or within ten days after the filing of the answer thereto; otherwise, the same shall be heard before a court without a jury. If a verdict shall be rendered for the petitioner, interest shall be included from the day of the filing of the petition.

Said corporation shall be subject to the duties and liabilities described in section twelve of chapter five hundred and forty-eight of the acts of the year eighteen hundred and ninety-four, relative to satisfaction of judgments pursuant to findings under the provisions hereinbefore set forth.

Provisions of law applicable.

[Approved June 12, 1907.]

1907. — CHAPTER 519.

AN ACT RELATIVE TO THE LOCATION OF THE BOSTON ELEVATED RAILWAY COMPANY IN WASHINGTON STREET AT AND NEAR FOREST HILLS SQUARE IN THE CITY OF BOSTON.

Be it enacted, etc., as follows:

SECTION 1. The Boston Elevated Railway Company, hereinafter called the company, which term shall be deemed to include its successors and assigns, may construct, maintain and operate its elevated lines upon the following location hereby granted, to wit: — Through Forest Hills square and Washington street from its junction with Hyde Park avenue to a point at or near where Washington street is crossed by the Boston and Providence railroad, now leased to the New York, New Haven and Hartford Railroad Company. Said location may be used also for reversing the company's trains.

Additional location of Boston Elevated Railway Company.

SECT. 2. In the construction, maintenance and operation of the elevated railway above provided for, the company shall have the rights, powers and privileges and be subject to the duties, restrictions and liabilities prescribed in respect to its elevated lines and structures by sections three, eight, nine, eleven, twelve, fifteen and eighteen of chapter five hundred and forty-eight of the acts of the year eighteen hundred and ninety-four, and by sections one, two, six, eight to ten, inclusive, twenty and twenty-one of chapter five hundred of the acts of the year eighteen hundred and ninety-seven.

Rights, powers and privileges of said company.

SECT. 3. The location of or right to maintain an elevated line or structure herein granted shall be subject to the terms of sections six and seven, Part II, of chapter four hundred and sixty-three of the acts of the year nineteen hundred and six, and shall further be subject to revocation by the general court, if the company shall not have completed the construction of its railway thereunder, within two years after the time when it was authorized to begin the construction of a railway and terminal station.

Location subject to provisions of St. 1906, c. 463, pt. II., §§ 6, 7.

Effect on
future location
of permanent
terminal
station.

SECT. 4. Nothing in this act shall be construed as affecting the future location of a permanent terminal station for the elevated railway in the locality above described.

SECT. 5, This act shall take effect upon its passage.

[Approved June 15, 1907.]

1907.—CHAPTER 530.

AN ACT TO REVOKE CERTAIN LOCATIONS FOR LINES OF ELEVATED RAILWAY GRANTED TO THE BOSTON ELEVATED RAILWAY COMPANY IN THE CITY OF BOSTON AND VICINITY.

Be it enacted, etc., as follows :

Revocation of
certain loca-
tions.
1894, 548, § 6.

SECTION 1. The following locations for lines of elevated railway of the Boston Elevated Railway Company, to wit: from City square to and through Warren avenue, to and over Warren bridge across Charles river, to and through Beverly street, to and through Haymarket square, to and through Union street, to and through Dock square, to and through a new street to be built by the city, of the width of eighty feet, in the line of Congress street, between State street and Dock square, to and through Congress street and Post Office square, to and through Federal street, to and over Federal-street bridge or a new bridge across Fort Point channel, to and through Dorchester avenue to the Milton line.

A branch railway through Alford street, to and over Malden bridge, to and through Main street, Everett, to the Malden line.

A branch railway from Everett square, to and through Chelsea and Ferry streets to the Malden line.

A branch railway from the junction of Broadway and Main street, Everett, to and through Broadway to the Malden line.

A branch railway from said City square to and through Chelsea street, to and over Chelsea bridge or a new bridge across the Mystic river, to and through Broadway, Chelsea, to and through Broadway, Revere, to and through Central avenue, to and through Beach street to Crescent beach.

A branch railway from Fenno's Corner, Revere, to and through Beach street, to and through Winthrop avenue to Beachmont.

A branch railway from Dorchester avenue to and through West Broadway, to and through Dorchester street, to and through East Second street to City Point at Marine Park. Also a branch railway from Dorchester avenue to Sixth street, thence to D street, D street to Eighth street, Eighth street to L street, L street to Sixth street to City Point and Marine Park.

A branch railway from Field's Corner through Neponset avenue to Neponset bridge.

From a point on Bow street in Somerville, near its junction on Walnut street, through Bow street, to and through Union square, to and through Webster avenue to the Cambridge line.

From Causeway street through Portland street, to and through Merrimac street, to and through Washington street, to and through Dock square, to and through Devonshire street, to and through Franklin street, to and through Arch street, to and through Chauncy street, to and through Harrison avenue, to Beach street, to and through Kneeland street, to Washington street.

From Warren street through Dudley street to Blue Hill avenue, to and through Blue Hill avenue to Vaughn street.

Commencing at a point on the southerly side of the approach to the Cambridge bridge, through Charles street in Boston, to and through Park square, to and through Pleasant street, to and through Tremont street, to and through Columbus avenue, to and through Centre street to the corner of May street.

A branch railway from Park square to and through Columbus avenue, to and over the location of the Boston and Albany railroad, or by some other convenient route or way, to and through Huntington avenue, to and through Tremont street, to and through Washington street in Brookline to Village lane.

From the Cambridge line over Cambridge street bridge or a new bridge over Charles river, Cambridge street in that part of Boston called Brighton, to and through Cambridge street in said Brighton, to and through Washington street to Oak square.

From North Russell street through Cambridge street, to and through Bowdoin square, to and through Court street, to and through Brattle street to Dock square.

A branch railway from Park square to and through Eliot street to Kneeland street.

From Main street in Charlestown through Essex street and Rutherford avenue to Sullivan square, in that part of Boston known as Charlestown.

Commencing at a point on Washington street at or near Fay street; thence upon and over private lands, and crossing Dover street, Shawmut avenue, Hingham, Middlesex, Emerald, Compton, Lucas and Paul streets. From Dudley street upon and over Guild row and Roxbury street to Washington street.

Commencing at the corner of Harrison avenue and Beach street, upon and over Harrison avenue to Essex street; and thence upon and over Essex street to Cove street.

Commencing at or near the corner of Motte street and Harrison avenue; thence upon and over Way street, Broadway extension and upon and over the existing bridge or a new bridge to be built across Fort Point channel to West Broadway, in that part of Boston known as South Boston, are hereby revoked: *provided, however*, that this act shall not in any way affect or impair the company's locations for or rights to maintain elevated lines and structures which shall be completed or begun at the time when this act takes effect or which were granted to the company by chapter five hundred and thirty-four of the acts of the year nineteen hundred and two or by chapter five hundred and twenty of the acts of the year nineteen hun-

dred and six, and which have been or may be granted by any acts of the year nineteen hundred and seven.

SECT. 2. This act shall take effect on the eleventh day of June, nineteen hundred and seven.

[Approved June 19, 1907.]

1907. — CHAPTER 573.

AN ACT TO PROVIDE FOR THE CONSTRUCTION OF AN EAST AND WEST TUNNEL AND SUBWAY IN THE CITY OF BOSTON.

Be it enacted, etc., as follows :

Construction
of Riverbank
subway
authorized.

SECTION 1. The Boston transit commission, hereinafter called the commission, may construct in the city of Boston, hereinafter called the city, a tunnel and subway, to be designated as the Riverbank Subway, and hereinafter called the subway, so designed as to be adapted to contain two railway tracks, from a point or points in or under the existing Park street subway station, or any enlargement thereof, under Boston Common, and any other intervening public or private ways or lands, substantially parallel with and adjoining or as a part of the tunnel authorized by chapter five hundred and twenty of the acts of the year nineteen hundred and six, to a point or points more than one hundred feet distant from the Common; thence in and under any intervening public or private ways or lands to a point or points in the Charles river embankment and park provided for by chapter four hundred and sixty-five of the acts of the year nineteen hundred and three, as amended by chapter four hundred and two of the acts of the year nineteen hundred and six; thence westerly in and under said embankment and park to a point or points in said embankment or park west of Harvard bridge; thence in, under, over and across public ways and lands to a point or points in Beacon street at or near the Back Bay Fens, or to such point or points in Commonwealth avenue or Beacon street east of the junction of Commonwealth avenue, Beacon street, Brookline avenue and Deerfield street as the commission may determine after due notice to all the parties interested and a public hearing thereon; including suitable approaches, entrances, sidings, stations, elevators, inclines, cuts, loops, connections and other structures, including connections either at grade or otherwise with the existing Tremont street subway, and suitable terminals under the Common and Tremont street, and suitable connections with existing or other tracks.

Any tunnel or subway construction under or within one hundred feet of Boston Common shall be made, so far as practicable, water tight, and the work shall so be done as to avoid the draining of moisture from the surrounding soil, or other injury to the trees, and the commission may construct a suitable system of subsoil irrigation above and near the line of said sub-

way within the Common, or may take any other measures which it may deem necessary or expedient for the preservation of the trees, to be paid for as a part of the cost of the subway. The commission shall design and construct any structures erected above the surface of the embankment and park aforesaid in such manner that they shall constitute the least practicable obstruction to the view.

SECT. 2. The commission shall immediately after the passage of this act make such preliminary investigations, surveys and plans as it deems expedient, and to that end may enter upon any lands or place and maintain marks therein, and may make excavations, borings and do all other acts necessary for such investigations and surveys, and may expend such sums as it deems necessary therefor. The expenses incurred in making such preliminary investigations, surveys and plans shall be deemed a part of the cost of the work.

Entry upon
lands for
investigation,
surveys, etc.

The Charles river basin commission shall make such changes in its plans for constructing the embankment and park aforesaid, and the conduit, drains or other structures therein or appurtenant thereto, and in the construction thereof, as the transit commission may determine to be required in connection with the proper location and construction of the subway herein provided for, and shall postpone or omit any part of the work provided for by said chapter four hundred and sixty-five, as amended by said chapter four hundred and two, which it may be necessary or expedient to postpone or which may be rendered unnecessary by or in view of the work herein provided for; but no changes, postponements or omissions shall be made in respect to the shut-off dam or any part thereof, or in respect to the main marginal conduit as distinguished from the inflows, overflows and other connections therewith.

SECT. 3. The commission shall not begin the work of construction until it has filed in the office of the city engineer a plan signed by the commission showing the proposed route or the location thereof, and the general form and method of construction, the location of proposed tracks, stations and approaches, and the alignment and grade, which plan shall be submitted to the Boston Elevated Railway Company, herein-after called the company, which term shall be deemed to include its successors and assigns, for its approval. Any such plan so filed may be altered at any time by a new plan signed and filed in like manner.

Filing of plan
prerequisite to
construction.

SECT. 4. The commission may make contracts in the name of the city for the work herein authorized, but all contracts involving two thousand dollars or more in amount shall be in writing and signed by a majority of the commission; and no such contract shall be altered except by an instrument in writing signed by the contractor and a majority of the commission, and also by the sureties, if any, on the bond given by the contractor for the completion of the original contract. No such contract or alteration of any such contract shall be valid or binding on the city unless executed in the manner aforesaid.

Commission to
contract for
construction,
etc.

Work so to be done as not to impede traffic.

SECT. 5. All work done under this act under or near public streets and places shall be conducted, so far as may be practicable, in such manner as to leave such streets and places, or a reasonable part thereof, open for traffic between the hours of eight in the forenoon and six in the afternoon of each secular day, except public holidays.

Use of public ways and lands without compensation except, etc.

SECT. 6. The commission may, for the purposes of this act, use public ways and lands, including the embankment and park aforesaid, without compensation therefor: *provided, however*, that any private owner of flats or land covered by tide water, taken under authority of chapter four hundred and sixty-five of the acts of the year nineteen hundred and three or chapter four hundred and two of the acts of the year nineteen hundred and six for that part of the embankment and park traversed by the subway, if entitled in law to additional compensation therefor in view of the use thereof authorized by this act, may recover the same from the city, in the manner provided by section eight of this act; and the commission may acquire for the city, by purchase or otherwise, or may take lands in fee and easements, estates, and rights in land, including the right to go under the surface thereof or through or under buildings or parts of buildings thereon, and such takings in fee or otherwise may be made whether the lands taken or otherwise affected are held under or by title derived under eminent domain or otherwise. A taking or purchase under this section of an easement or other estate or right in a given parcel of real estate, whether such parcel consists of unimproved land or of land and buildings, may be confined to a portion or section of such parcel fixed by planes of division or otherwise, below or above or at the surface of the soil, and in such case no taking need be made of upper or lower portions or other parts or sections thereof, except of such easements therein, if any, as the commission may deem necessary. The commission, to make any taking by right of eminent domain, shall cause to be recorded in the registry of deeds for the county of Suffolk a description of the lands, easements, estates or rights to be taken, as certain as is required in a common conveyance of land, with the statement that the same are taken under authority of this act, which description and statement shall be signed by the commission; and the lands, easements, estate or rights therein described shall upon such recording be taken for and shall vest in the city. The commission shall, so far as may be practicable, notify all known owners of such takings, but the validity thereof shall not be affected by want of such notice.

Taking in fee of lands, etc.

Record in registry of taking.

Sale or removal of buildings, etc., and disposition of proceeds.

SECT. 7. The commission may sell the buildings and other structures upon any lands taken by it, or may remove the same, and shall sell, if a sale be practicable, or if not shall lease, any lands, or rights or interests in land or other property so taken, or purchased for the purposes of this act, whenever the same shall in the opinion of the commission cease to be needed for such purposes. The proceeds of such sales and leases and the

fair valuation of such lands or other property no longer needed for such purposes but not actually sold, shall be deducted from the cost of the subway for the purposes of ascertaining the rental thereof.

SECT. 8. The commission shall determine and award the damages sustained by any person by reason of property taken or injured by the commission under authority of this act, except public ways or lands, and except the embankment and park aforesaid, and may agree with any person as to the amount to be paid as damages sustained by him for any property so taken or injured, which damages the city shall be liable to pay. If such person is dissatisfied with such award, or cannot agree with the commission upon his damages, the same may be determined by a jury in the superior court for the county of Suffolk, on petition therefor of such person or of the commission, in which case such person shall be joined as a petitioner against the city, filed in the clerk's office within one year after such property is so taken or injured; and judgment shall be entered upon the determination of the jury, and costs shall be taxed and execution issued in favor of the prevailing party as in other civil cases. The members of the commission shall not be liable personally for any such damage. In a determination made under the provisions of section twelve of chapter four hundred and sixty-five of the acts of the year nineteen hundred and three, as amended by section four of chapter four hundred and two of the acts of the year nineteen hundred and six, of the value of the benefit or advantage from the establishment of the embankment and park therein mentioned to any parcel of real estate bordering upon or near said embankment and park, the fact that said embankment and park may be used for the purposes provided by this act shall be taken into consideration. If an open cut for a railway incline is constructed in any part of the embankment or park, and if the damage to any parcel of real estate bordering thereon occasioned by the use of the embankment or park for such open cut and incline and any surface connection therewith exceeds the value of the benefit or advantage which will result to such parcel from the establishment of the embankment and park, as provided by said chapter four hundred and sixty-five, as amended by said chapter four hundred and two, the amount of such excess shall be determined and may be recovered in the manner hereinbefore provided by this section. In such case no betterment shall be assessed or collected against such parcel under the provisions of section twelve of said chapter four hundred and sixty-five, as amended by section four of said chapter four hundred and two.

Determination of damages and assessment thereof by a jury.

SECT. 9. The commission may order the temporary removal or relocation of any surface tracks, and the temporary or permanent removal or relocation of any conduits, pipes, wires, poles or other property of any person or corporation which it deems to interfere with the construction or operation of the subway, and

Removal or relocation of surface tracks, conduits, pipes, wires, etc.

shall grant new locations for any such structures so removed or relocated. Such orders, to the extent specified therein, shall be deemed a revocation of the right or license to maintain such tracks, conduits, pipes, wires, poles or other property, and the owner of any such structures in public ways or lands shall comply with such orders without expense to the city. If such owner shall fail to comply with the order of the commission within a reasonable time, to be fixed in the order, the commission may discontinue and remove such tracks, conduits, pipes, wires, poles or other property, and may relocate the same, and the cost of such discontinuance, removal or relocation shall be repaid to the city by the owner. No such discontinuance, removal or relocation shall entitle the owner of the property thus affected to any damages on account thereof. Any such structures in or upon private lands may be removed and relocated by the commission, or if removed and relocated by the owner thereof, the reasonable expense shall be repaid to him by the commission. Any gas or electric lighting company may shut off the gas or current from any pipes or wires affected by any acts done hereunder, when and so far as may be necessary to avoid danger of escape or explosion of gas or other public danger.

Contract for
use of subway,
terms, condi-
tions, etc.

SECT. 10. Before beginning the work of construction the commission shall execute with the company, in the name of the city, the company consenting thereto, a contract in writing for the sole and exclusive use of the subway by the company, for the running of its cars therein and for other purposes, for a term of twenty-five years from the beginning of the use thereof, at an annual rental equal to four and one half per cent. of the net cost thereof, and upon such other provisions and conditions, not affecting the term or rental, and following the form of the tunnel lease made by and between the commission and the company December twenty-fourth, nineteen hundred and four, so far as the same may be applicable, as the commission and the company may agree upon, or in case of difference as the board of railroad commissioners, hereinafter called the board, may determine. The provisions of this act, in so far as they declare, define or establish the terms and conditions for the construction, tenure, maintenance and operation of the subway, shall be embodied in and made part of said contract. The use of the subway shall begin when, in the opinion of the commission, a reasonable time after completion has been allowed for equipment. The net cost thereof shall be deemed to include, except as herein otherwise provided, all expenditures incurred in acquisition and construction, including damages, expenses and salaries of the commission, and interest at three and one fourth per cent. per annum on the debt incurred in construction prior to the beginning of the use.

The company may for the purposes of this act, including all equipment or other expenditure by the company required or authorized hereby, from time to time in the manner and subject to the requirement prescribed by law, issue and dispose of such

amounts of its capital stock or bonds, at its option, in addition to the amounts heretofore authorized, as may be necessary therefor.

In respect to the equipment, use and operation of the railway to be located in the subway, and transportation thereon, the company shall have all the powers and privileges and be subject to all the duties, liabilities, restrictions and provisions set forth in general and special laws now or hereafter in force applicable to it, so far as the same do not impair contract rights or privileges acquired under any law or otherwise.

The use and control of the subway if acquired by the company shall be subject to the rights, if any, which the West End Street Railway Company may have under the provisions of article two of its lease to the company, dated December nine, eighteen hundred and ninety-seven, or otherwise.

SECT. 11. The transit commission and the Charles river basin commission shall jointly determine, or in case of difference the board shall determine, the amount if any by which the cost of the embankment and park mentioned in section one of this act, and of the conduit, drains or other structures therein or appurtenant thereto, is or may be reduced by reason or in consequence of the work provided for by this act, below the amount which they otherwise would have cost; and the amount of such reduction shall be deducted from the cost of the subway for the purpose of ascertaining the rental thereof. So much of such reduction as may be connected with the cost of construction of the marginal conduit to be constructed by the Charles river basin commission shall be added to the cost of the construction of the metropolitan park system to be assessed under the provisions of section nine of chapter four hundred and sixty-five of the acts of the year nineteen hundred and three, as amended by section two of chapter four hundred and two of the acts of the year nineteen hundred and six, and in determining the amount to be assessed upon and paid by the city under the provisions of said chapter four hundred and sixty-five as so amended, such estimated amount of the reduction connected with the construction of said conduit shall be credited as having been paid by the city. So much of such reduction of cost of the embankment and park as may not be connected with the cost of construction of said marginal conduit shall be borrowed by the city in connection with and in the same manner as the amount which it is to borrow for repaying to the commonwealth the cost of said embankment and park as provided by section nine of said chapter four hundred and sixty-five, as so amended, and the amount thereof shall be paid into the sinking fund set aside to meet the bonds issued by the city to pay the cost of construction of the subway herein authorized.

Deductions
authorized in
ascertaining
amount of
rental.

SECT. 12. Upon the determination by the transit commission or the Charles river basin commission, either alone or jointly, of any important question arising in the course of the work herein provided for upon which the company has pre-

Notice of
determination
by commis-
sion and
revision
thereof.

viously requested a hearing, except an award of or agreement upon damages as provided in section eight hereof, the company may within three days after notice of such determination apply to the board for a revision of the same, and thereupon the board may consider and finally determine such question.

Riverbank
Subway Loan.
1894, 648, § 87.

SECT. 13. The treasurer of the city shall from time to time, on request of the commission, issue and sell at public or private sale the bonds of the city, registered or with interest coupons attached, as he may deem best, to an amount not exceeding the cost of the subway herein provided for. Such bonds shall be designated on their face, Boston Riverbank Subway Loan, shall be for such terms, not exceeding fifty years, as the mayor and treasurer of the city may determine, and shall bear interest payable semi-annually at such rate not exceeding four per cent. per annum, as the treasurer shall determine. The debts incurred by the city from time to time under the provisions of this act shall not be included in determining the limit of indebtedness of the city as established by law, and the proceeds of such bonds shall be used to meet all damages, costs and expenses incurred by the commission or by the city in carrying out the provisions of this act. The board of commissioners of sinking funds shall establish a sinking fund for the payment of the bonds issued under this act. All premiums received from the sale thereof shall be paid into the sinking fund. All rents, tolls, percentages or other annual compensation received by the city for any use of the subway under this act, or for any use of any lands or rights taken under authority of this act, shall annually be used by the treasurer, first, to meet the requirements of any deficiency in the sinking fund; second, to meet the interest on the bonds; and the surplus, if any, as a part of the general revenue of the city. The proceeds from any sale or lease of lands or rights taken by purchase or otherwise under authority of this act shall be paid into the sinking fund, or shall be used for construction, as the commission may determine.

Provisions for
completion of
work after
expiration of
term of com-
mission.

SECT. 14. If the term of the commission expires before the completion of the work herein provided for, the city shall have all the rights, powers and privileges, and be subject to all the duties, restrictions and liabilities, hereby conferred or imposed upon the commission in respect thereto, and such powers and duties shall be exercised and performed by the mayor, city engineer and city treasurer in place of the commission.

Enforcement
of provisions
of act.

SECT. 15. The supreme judicial court and the superior court, upon application of any party in interest, including the company, the city, or any ten taxable inhabitants thereof, may enforce or prevent violation of the provisions of this act by any appropriate process.

Time limited
for beginning
work on
subway.

SECT. 16. The construction of the subway herein authorized shall be begun at such time after the expiration of one year from the completion of the tunnel authorized by said chapter five hundred and thirty-four as the commission and the com-

pany may agree upon, or in case of difference as the board shall determine that the public interests require; but the same may be begun at any time which the commission and the company may agree upon.

SECT. 17. Upon the acceptance of this act by the company the authority granted by chapter five hundred and thirty-four of the acts of the year nineteen hundred and two for the construction of the subway in said chapter five hundred and thirty-four provided for shall cease, but the contract entered into under date of September twenty-fifth in the year nineteen hundred and two between the city of Boston, acting by the commission, and the company shall remain in full force so far as regards the system of tunnels and appurtenances authorized by said chapter five hundred and thirty-four.

Effect of
acceptance of
act.

SECT. 18. This act shall take effect upon its acceptance by the company, by vote of its board of directors and return thereof, within two months after its passage.¹

Acceptance
of act.

[*Approved June 28, 1907.*]

¹ Accepted July 11, 1907.

INDEX.

A.

PAGE

ABATEMENT

- of park assessments. See PARKS.
- of sewer assessments. See SEWERS.
- of sidewalk assessments. See SIDEWALKS.
- of taxes. See TAXES.

ACTIONS, by and against city

- where may be brought 21
- notice of removal 21
- fees in, where city is a party not to be paid to clerks of courts 44

ADVERTISEMENTS

- displaying on parkways, park commissioners to regulate 178
- metropolitan park commission to protect parks, etc., from disfigurement by 307
- penalty for violation of rules 307

ALDERMEN

- mayor's appointments to be confirmed by 24
- proceedings in case of veto of orders, etc., by mayor 24, 25
- election and number of 27
- proceedings in case of vacancy or failure to elect 27
- aldermanic districts 27, 28
- nominations of 28
- filling vacancies 28
- papers of candidates 29
- ballots and returns of elections at primaries 29
- term of office 29
- salary of 29
- organization 29
- chairman of 29
- city clerk may preside until chairman is chosen 29
- quorum of 30
- shall determine as to qualifications and election of members 30
- powers and duties 30
- shall have powers of county commissioners 30
- and railroad commissioners 30
- orders, etc., how acted on by 30
- carriage hire or car fare not to be paid except, etc. 30, 31
- enacting style of rules and orders 31
- to issue licenses for blasting 187
- to prescribe price for redeeming stray dogs placed in shelter 192
- to provide street lamps, etc. 198
- unaccepted streets, may order owners of land on, to construct sidewalks . 211
- not to be construed as acceptance of street by the city 212
- to confirm vote of street commissioners fixing names of streets 222
- to concur with metropolitan park commission in land takings, etc., in Suffolk County 254

	PAGE
ALEWIFE BROOK	
act authorizing improvement of	308
state board of health to report on purification of	323
act relative to purification of	334, 339
ALLEYS, public	
city not liable for defects in	225
shall prevent nuisance therein	225
See STREETS .	
ALMSHOUSES. See PUBLIC INSTITUTIONS.	
ANIMALS	
health inspectors to be inspectors of	52
not to be kept in tenement houses	160
slaughtering of	165, 166
APARTMENT HOUSES. See BUILDINGS.	
APPEAL, board of	
how composed	47
no member to act in case where he is interested	47
compensation of members	47
appeal to, how made	88
managers of theatres and public halls may appeal to	190
See BUILDINGS; POLICE; WIRES.	
APPROPRIATIONS	
city council may make	34
transfers of, not to be made except	41
limit of	43
ARMS	
for use of English High and Latin schools, governor authorized to issue, ...	200
city held responsible for	200
ART DEPARTMENT	
mayor to appoint commissioners	45
commissioners to serve without compensation	45
may appoint secretary	45
"work of art," definition of term	81
no work of art to become property of city unless approved by art com- missioners	81
not to be erected, etc., in any public place without such approval	81
not to be removed without such approval	82
art commissioners may approve designs for public buildings, bridges, etc., ...	82
not to impair power of park commissioners	82
art commissioners must act within sixty days or	82
shall make contracts for works of art for city	82
ART, works of	
on parkways, etc., park commissioners to regulate	178
ARTS AND SCIENCES	
school for instruction in	201
See SCHOOLS .	
ASHLAND, town of	
commonwealth to pay sum to, annually, on account of construction of reservoirs, etc.	447
ASSESSMENTS	
for locating and laying out highways, etc. See STREETS .	
for betterments for laying out parks. See PARKS .	
sewer. See SEWERS .	
sidewalk. See SIDEWALKS .	

	PAGE
ASSESSORS	
of taxes. See TAXES.	45
ATHLETICS, etc.	
school committee to provide for instruction in, etc.	201
See PHYSICAL TRAINING SCHOOLS.	
AUDITOR	
of the city of Boston	
to be auditor of county of Suffolk	148
salary as	148
contracts for construction of streets, etc., to be deposited with .	216
AWNINGS	
regulations in regard to	222
See STREETS.	
B.	
BACK BAY FENS	
city to dredge	316
See PARKS.	
BACK STREET	
not to be taken for Charles river embankment	173
BALLAST	
city council may regulate weighing of lighters, etc., used for transportation of	158
and inspection of	159
may appoint weighers, etc., of	159
may fix penalties for offences	159
BALLOT LAW COMMISSION, Boston	
board of election commissioners to constitute	50
BALLOTS	
aldermen to provide suitable safe for preservation of	31
delivery of, by custodian of safe	31
election commissioners shall receive	31
penalty for violation of law	31
board of election commissioners to constitute the Boston ballot law commission	50
BEACON STREET	
land on north side of, not to be taken for Charles river embankment .	173
BELMONT, town of	
metropolitan board to provide additional outlet for sewage of . . .	402
BETTERMENTS	
Charles river basin, assessments for, on account of construction of . .	332
parks, assessments for, on account of laying out, etc.	171, 172, 253, 264, 277, 293, 336
owner of real estate may apply for revision	172
abatement of assessment	172
assessments to constitute a lien on real estate	172
collection of	172
may be apportioned	172
party aggrieved may have amount assessed by jury	172
assessments on leased property, how paid	172
cities and towns not to be assessed	253
streets, assessments for, on account of laying out	217
commissioners to determine amount of	217
may be reassessed	217

	Page
BETTERMENTS, <i>continued.</i>	
streets, alienation of real estate not to affect	217
owner may apply for revision	217
excess paid to be refunded	217
BILLIARD TABLES	
may be licensed	188, 191
penalty for using without license	188
fee for license	191
licensing, vested in licensing board	188, 245
BLASTING	
near highway, not to be done without license	187
penalty for, without license	188
BOILERS, etc.	
restrictions in regard to smoke from	197, 198
See BUILDINGS.	
BONDS	
may be required of persons collecting public money	34
BONDS OF INDEBTEDNESS	
city treasurer to issue	42
ratification of certain	42
kind, and interest on	42
date of	42
interest on water bonds, how applied	43
city treasurer to invite proposals for purchase of	43
BOSTON, city of	
territorial limits and corporate powers	1
public property in annexed territory to be vested in	2
boundaries of	3
division of city into wards and precincts	20
actions against, where may be brought	21
notice of removal	21
city council of, how composed	21
aldermen, board of	21
branch of city council	21
limit of tax rate	43
may take and hold property bequeathed, etc., to children's institutions	
department	49
may maintain hospital for chronic diseases	54
may establish asylums for treatment of chronic insane	56
may take and hold property bequeathed, etc., to insane hospital department	55
may establish asylum for inebriates	56
may take and hold property bequeathed, etc., to institutions registration	
department	57
may maintain a public library	58
to have perpetual right to hold land, corner of Boylston and Dartmouth	
streets, granted by commonwealth of Massachusetts for central	
library building	60
conditions of said grant	60
land forfeited if used for any other purpose	60
may take and hold property bequeathed to pauper institutions department	62
may take and hold property bequeathed, etc., to penal institutions	
department	63

BOSTON, city of, *continued.*

authorized to purchase land in any town in commonwealth for public cemetery	147
expense for highways and bridges in Chelsea, Revere and Winthrop not to be assessed upon	148
may expend money for relief of disabled firemen	151
to have control of Jamaica pond and Ward's pond	179
authorized to restore Old State House, etc.	180
may receive sewage from city of Newton, etc.	209
limit of number of liquor licenses to be issued in	246
city to dredge Back Bay fens	316
to construct conduit for Stony brook from Huntington avenue to Charles river	316
to build Charles river embankment	317
expenses to be paid by	317
metropolitan water board authorized to take waterworks of	414
to commence operation of same before January 1, 1898	416
commonwealth to reimburse city for such taking	420, 425, 431
income from waterworks, how applied	438

BOSTON ASYLUM FOR INEBRIATES. See INEBRIATES.**BOSTON BALLOT LAW COMMISSION**

board of election commissioners to constitute	50
---	----

BOSTON ELEVATED RAILWAY COMPANY

act to incorporate and to promote rapid transit in city of Boston	481
freight or baggage, shall not transport	481
capital stock, amount of	481
may issue bonds, etc.	481
may construct lines of elevated railway	482
methods of construction authorized	482
locations for same	482-484
locations in cities and towns to be approved by local officials	484
damages, by reason of location of, owners, etc., of property may recover, ...	484
owners, etc., to file petition in court and notify corporation	484
petitions to be heard before jury	484
finding of jury	484
corporation may locate stations	485
may take fee of land, etc.	485
shall pay damages occasioned by such taking	485
judgments, payment of	485
repayment of same	485
to restore street surfaces, relay pipes, etc., and strengthen bridges over which its railway shall pass	485, 486
corporation to be annually taxed	486
to establish fares and issue transfer checks	486
may lease or purchase other railway lines	486
railroad commissioners to certify to safety of railway before being opened for public use	486
corporation may appeal from decision of railroad commissioners	486
to apply for location in Boston	486, 487
shall deposit security fund with state treasurer	485, 487, 503
portion of same to be forfeited if corporation negligently fails to construct railway	487
enforcement of provisions of act	487
franchise tax to be imposed on corporation	487

BOSTON ELEVATED RAILWAY COMPANY, *continued.*

PAGE

occupation of Boston Common and certain other places in city forbidden	487
electricity, may operate by, or other motive power except steam	496
locations of elevated railways	496
may construct loop lines	498
Boston & Albany and Old Colony railroad companies, no structures to be placed on land or locations of, without consent	498
Cambridge-street subway to Scollay square, transit commission to construct upon request of corporation	498
preliminary plans, corporation shall file with mayor, showing form and method of construction	499
may appeal to railroad commissioners if mayor disapproves plan	499
shall also file plans with railroad commissioners	499
said board shall examine places with reference to strength and safety of structure and of bridges traversed thereby	499
shall approve plan if satisfactory	499
corporation shall not proceed with construction without approval of board	499
railroad crossings, manner and method of constructing	499
railroad commissioners to determine if parties cannot agree	500
damages occasioned by, how estimated and recovered	500
railroad cars, authorized to haul of other corporations on portion of its railroad	500
shall provide for wires, poles or pipes that may find necessary to remove	500
inclines, may construct	500
damages, how settled, where there are separate or several interests	500
may regulate fares	500
fares not to be reduced by legislature, provided	500
reduction of fares, how effected	500, 501
taxes, additional not to be imposed, etc.	501
shall pay annual sum to commonwealth proportioned to dividends	501
such sum to be distributed among different cities and towns in proportion to mileage of track therein	501
free transfer, shall provide, from elevated to surface cars, etc.	501
West End Street Railway, authorized to lease property and franchises of or of any other street railway	502
terms of lease to be approved by railroad commissioners	502
rights of West End Street Railway Company in subway, assignment of to corporation	502
operation of subway subject to consent of West End Street Railway Company	502, 514
Travers-street portion to be discontinued	502
Charles-river bridge, transit commission to rebuild of strength to support elevated railroad	502
future alterations of bridge to be paid for by corporation	502, 503
shall apply to aldermen within sixty days for route for double-track railroad	503
shall apply to railroad commissioners if aldermen fail to approve route	503
shall construct railroad within three years	503
may apply to supreme court for extension of time	503
shall within one year apply for further route	503
shall apply to railroad commissioners if aldermen fail to approve said route	503

BOSTON ELEVATED RAILWAY COMPANY, *continued.*

	PAGE
shall construct railroad within three years	504
Cambridge bridge, shall join in application of Boston and Cambridge for authority to construct	504
shall pay portion of cost of bridge	504
shall apply to mayor and aldermen for route across bridge, etc. . .	504
shall apply to railroad commissioners if aldermen fail to approve route	504
shall construct railroad within two years	504
enforcement of provisions of act, Cambridge may apply to supreme court for	504
East Boston tunnel to be leased to, on completion	505
rental, annual, amount of fixed	505
to be in full compensation for use of tunnel	505
toll, city to collect of persons passing through tunnel	505
reduction of, when to be made	505
corporation to act as agent of city to collect tolls	506
locations granted to, not to be revoked, except	506
stations, location of	507
corporation subject to general laws applicable to street railway companies, except, etc.	507
damages for land taken by, owner may apply for jury to assess	508
locations and takings, ratified by aldermen of Boston, provided, etc. . .	508
time, extended for construction of	509
contract with, for use of East Boston tunnel and Washington-street subway	512
annual rental, amount of fixed	512, 513
work to begin upon execution of contract and acceptance of act by voters	513
company may construct connecting lines of elevated railway	513
may issue stock or bonds, etc.	513
locations granted, to be held by company as long as it has use of tunnel, ...	513, 514
shall remove trains from existing subway upon completion of tunnel, etc. . .	514
alterations to be made by commission	514
tunnel to be considered part of elevated railway	514
company may discontinue use of elevated structures, etc.	514
may sell lands and property	514
proceeds thereof, how applied	514
capital of company not impaired	514
railroad commissioners may revise findings of transit commission . . .	514
upon completion of subway may order removal of surface tracks, etc., from portion of Washington street	514
acceptance of act by voters	516
city of Boston to own tunnel and subways and all rents, tolls and profits for use of same	516
not to be taken by commonwealth, except	516
act to take effect upon its passage	516
authorized to construct subways in Cambridge	519-534
claims against, act relative to	536
authorized to construct elevated railway from Sullivan square through cities of Everett and Malden	537
Forest Hills square, act relative to location in	541
locations, act to revoke certain, granted to company	542, 543

	PAGE
BOSTON ELEVATED RAILWAY COMPANY, <i>continued</i>.	
lease of Riverbank subway to, transit commission to execute contract for	548
construction, when shall begin	550
acceptance of act and time for taking effect	551
BOSTON INSANE HOSPITAL. See INSANE.	
BOSTON FIREMEN'S RELIEF FUND	
corporation created to hold	153
authorized to manage and dispose of same	153
Boston protective department, provisions to apply to members of	153
BOSTON PROTECTIVE DEPARTMENT "	
members and apparatus of, to have right of way while going to a fire	152
penalty for violating rights of	152
members to have right of admission to "Charitable Association of the Boston Fire Department"	152
Boston firemen's relief fund, provisions to apply to members	153
directors may place disabled members on pension roll	153, 154
amount of pension in case of total disability	154
amount of pension of members of regular and call force	154
BOSTON, REVERE BEACH AND LYNN RAILROAD	
metropolitan park commission authorized to relocate portion of, along Revere beach	256
See PARKS.	
BOSTON TRANSIT COMMISSION	
may use basement of Old State house for transit purposes	180
appointment of, two members by governor	487
term of office of	488
extended	507, 515, 519
vacancies, how filled	488
salary of members	488
organization of	488
may choose secretary, engineers and other employees	488
to keep accounts of expenditures, etc.	488
to make annual report to city council of Boston	488
subway, may construct, under certain streets	488, 489
shall file preliminary plan with city surveyor	489
occupation of portion of certain streets forbidden	489
construction, work of, how conducted	489
shall construct Charlestown bridge	489
Warren bridge, shall reconstruct	489
Charles-river bridge, may discontinue	490
may use public ways and take property	490
shall file description in registry of deeds	490
may remove buildings from land taken	490
may sell property not needed	490
damages to owners, commission to determine	490
owners may apply for jury upon failure to agree	490
may grant locations for tracks in subways and tunnels	491, 495
Tremont and Boylston streets, surface tracks to be removed from part of	491, 495
may order other surface tracks removed	491, 495
compensation shall fix rates of, for use of subways and tunnels	491, 495
may order temporary removal of surface tracks	491
may order removal of pipes, wires and poles	491
contracts, term of, for locations	491, 495
rapid transit loan — city treasurer to issue certificates to amount of \$7,000,000	491

BOSTON TRANSIT COMMISSION, *continued.*

PAGE

not to be included in limit of indebtedness	492
Charlestown bridge, loan \$750,000	491
sinking fund how established	492
payments into	492
may take strip of land from junction of Tremont street and Shawmut avenue to Franklin park	492
acceptance of act, special election to be called for	493
subway, act relative to construction of	493
may construct, for less than four tracks	493
may enlarge, in future	493
Boston Common, not to be used permanently, except	493
lands, etc., proceeds from sale of, to be credited to subway account	494
Haverhill and Canal streets, street commissioners may widen	494
tracks in subway, construction and equipment of	494
contracts, may make, with railway company for location of tracks in subway	494
interest on debt to be considered part of cost of subway	495
land, between Haverhill and Canal streets, may transfer to city	495
treasurer to issue bonds to value of land transferred and hold proceeds for construction of subway	496
rapid transit, act to promote in Boston and vicinity	496
may mortgage franchises and property	496
Cambridge-street subway to Scollay square shall construct on request of Boston elevated railway company	498
may take land and buildings needful for such construction	498, 499
damages occasioned, how recovered.	499
East Boston tunnel, commission to construct	488, 505
shall lease tunnel, upon completion, to Boston elevated railway company, ...	505
annual rental, amount of fixed	505
may sublet under lease	505
toll of one cent, city to collect of persons passing through tunnel	505
toll may be reduced, when	505
tolls and rental, amount of, how applied	506
corporation to be agent of city to collect tolls	506
additional loan for East Boston tunnel	516, 517
East Boston tunnel, act relative to connecting with Cambridge-street subway	509
rapid transit loan, city treasurer to issue bonds for construction of sub- way under Cambridge street, Bowdoin square and Court street	506
powers, duties and compensation of, continued	507
Washington-street subway, commission to construct to Causeway street	510
may connect with East Boston tunnel and existing subway	510
construction of, when to begin	510
may make surveys and plans	510
expenses, how paid	510
work not to begin until plan has been filed with city engineer	510
contracts, may make	511
not to be altered, except	511
work to be conducted so as not to disturb traffic by day	511
may take lands, etc.	511
shall file description in registry of deeds	511
buildings, may sell or remove, on land taken.	511
proceeds from sale, how applied	511

	PAGE
BOSTON TRANSIT COMMISSION, <i>continued.</i>	
damages to property, commission to determine and award	512
may be determined by jury if parties are dissatisfied	512
surface tracks, may order removal or relocation of	512
pipes, wires and poles, may order removal or relocation of	512
shall grant new locations for same	512
may, upon failure to comply with order, remove structures at owner's expense	512
owner not entitled to damages	512
gas company may shut off gas from pipes affected	512
shall execute contract with Boston elevated railway company for exclu- sive use of tunnel and subway	512
term of office extended	515
work, how to be carried on, if not completed before term of commission expires	515
supreme court may enforce provisions of act	516
Washington-street subway, changes in location authorized.	517, 518
term of office of, extended	519
powers, duties and compensation, continued	519
act to increase authority of, to take land, etc.	535
east and west tunnel and subway, commission authorized to construct .	544
designated Riverbank subway	544
location and route of subway	544
manner of construction	544
to make preliminary plans and surveys	545
Charles river basin commission to make necessary changes in plans . .	545
work not to begin until plan of location, etc., is filed with city engineer .	545
contracts for construction, commission may make	545
work to be done so as not to impede traffic	546
may use public ways and land, etc.	546
may take lands	546
to file description in registry of deeds	546
may sell buildings on lands taken 	546
proceeds of sales, how applied	547
damages, commission to determine	547
person dissatisfied may have, determined by jury	547
may order temporary removal of surface tracks	547
of pipes, wires and poles	547
shall grant new locations	547
owners not entitled to damages	548
gas company may shut off gas from pipes affected	547
shall make contract with Boston elevated railway company for sole use of subway	548
rental, amount of, how may be reduced	549
loan authorized	550
bonds designated Boston riverbank subway loan	550
not to be included within debt limit	550
interest, premiums, rents, etc., how applied	550
work to be completed by city if term of commission expires before its com- pletion	550
enforcement of provisions of act	550
BOOTBLACKS, etc.	
trade of, how regulated	189
how licensed	
penalty for exercising trade without license	189

	PAGE
BOUNDARIES	
of city of Boston	3-19
BOYLSTON AND WEST BOYLSTON, towns of	
payments to by metropolitan water board for taking waters of Nashua river	420, 425, 431
act relative to compensation of employees in West Boylston for loss of work	426
compensation for damages by construction of metropolitan water system.	471
See WATER .	
BOYLSTON, John	
"charitable donations"	
overseers of poor to have charge of	64
may board out persons receiving benefits of	64
BOWLING ALLEYS	
may be licensed	188, 191
penalty for using, without license	188
fee for license	191
licensing, vested in licensing board	188, 245
BRIDGES	
city may widen bridges and draw openings	82
may discontinue draw openings	83
rafts, etc., not to be attached to, without permission	158
penalty for offence	158
Broadway bridge	
draw of, to be opened and closed at all times for accommodation of vessels	83
Cambridge bridges	
maintenance of	83
commissioners to be appointed by mayor	83
to have care of said bridges	83
to authorize poles, wires, etc., to be placed thereon	83
one-half of expenses and damages to be paid by each city	83
justice of supreme judicial court to enforce provisions of law	83
Charles-river bridge	
approaches to be kept open for landing places	83
transit commission may discontinue	490
Charles-river dam	
part to be highway and remainder to be parkway	83
maintenance of highway of	83
Charlestown bridge	
transit commission to rebuild	489
Chelsea bridge (north)	
to be maintained by city of Chelsea	83
Chelsea bridge (south)	
to be maintained by city of Boston	83
Chelsea-creek bridge	
maintenance of	84
Chelsea-point bridge	
franchise of	84
Chelsea-street bridge	
draw to be maintained	84
no toll to be charged	84
Dover-street bridge	
city to maintain	84

	PAGE
BRIDGES	
Dover-street bridge, <i>continued</i> .	
no toll to be charged	84
Brookline Gas Light Company may maintain gas pipes, etc., by the side of	84
Eastern-avenue bridge	
city to maintain	84
Longwood-avenue bridge	
to be maintained by park commissioners of Boston and Brookline,	84
Malden bridge	
city to maintain	85
Meridian-street bridge	
city to maintain	85
no toll to be charged	85
Mount Washington-avenue bridge	
city to maintain	85
no toll to be charged	85
Warren bridge	
city to maintain	85
no toll to be charged	85
transit commission to reconstruct	489
BRIGHTON, town of	
territorial limits	2
metropolitan park commission authorized to acquire Fuller's wharf in,	296
act to provide for extension of south metropolitan sewer through . . .	410
BROOKLINE GAS LIGHT COMPANY	
may lay gas pipes, etc., across Fort Point channel and Dover-street bridge,	84
BROOKLINE, town of	
territorial limits	2
maintenance of Longwood-avenue bridge to	84
metropolitan board to provide additional sewerage facilities for . . .	395
extension of south metropolitan sewer through, act to provide for . . .	410
See SEWERAGE	
BUILDINGS, city	
city officers to make contracts for erection or repairs of, and invite pro- posals therefor	38
architect to be approved by mayor	39
to be built by department requiring	39
approval of plans of	39
board of appeal	
how composed	47
to be appointed by the mayor	47
vacancies in board, how filled	47
decisions to be in writing	47
pay of members	47
to make annual report	47
applicants for building permits may appeal to	88
shall notify commissioner	88
commissioner to transmit notice to	88
board shall give hearing	88
may affirm or annul order of commissioner	88
action of, in specific cases	88
decision of, shall specify variations	89
shall be filed in office of commissioner within ten days	89

BUILDINGS

PAGE

city, continued.

copy to be sent to applicant	89
permit to be issued in accordance with	89
same provisions to apply to commissioner of wires	89
to report annually to mayor	89
report to be printed	89
for permits for engines, boilers, etc., may appeal to	142
owner of property affected by decision of, may have action reviewed by court, provided, etc.	143
person applying for review shall file bond, etc., to save other party harmless in case, etc.	143
court to assess damages	144
execution to issue therefor	144

Building Department.

to be under charge of commissioner	46
to be appointed by mayor	46
term of commissioner	46
salary of	46
shall submit annual report	46
may appoint inspectors, etc.	46
clerk to keep record of business of department	46
commissioner to appoint deputy	46
deputy to act in absence of commissioner	46
no officer of, to engage in any other business	46
commissioner to grant permits for the construction, etc., of buildings, ...	46
shall examine such buildings, etc.	47
applications for building permits	
commissioner to issue	87
may require sworn statement of applicant	87
may stop work under permit if terms are violated	87
may require plans, etc., of any structure	87
present employees to hold office until removed	87

Construction and Inspection of Buildings.

commissioner or inspectors shall examine buildings in course of construc- tion	87
shall make records of violations of law	88
publication of records privileged	88
dangerous buildings, shall examine	88
shall make record of examination	88
equivalent methods of construction, commissioner may allow	89
shall keep record of same	89
fire, shall state probable origin of	88
shall examine buildings to be altered or repaired	88
strength requirements for proposed structures, commissioner shall determine	89
unsafe buildings, shall inspect	88
shall notify owner to secure same	88
may order unsafe building vacated	88
commissioner may with approval of mayor secure unsafe building, ...	88
may erect protection for the public	88
may close highway	88

BUILDINGS, continued.

PAGE

bay windows, awnings, etc., not to project over public way or square unless, etc.	93
shall not project more than three feet	93
nor more than twelve inches over certain ways	93
beams, wooden floor or roof, depth of entrance of into wall	108
to be hung in metal hangers, when	108
shape and arrangement of, in regard to fire	108
engines, boilers, etc., not to be placed without permit	141
boilers not to be maintained under public way	93
application for permit to be in writing	142
commissioner may issue permit	142
application to be published in newspaper, when	142
copy to be posted on premises, etc.	142
if no objection, commissioner may issue permit	142
if objection is filed, application to be referred to board of appeal	142
board of appeal may require deposit of objector for payment of costs	142
board of appeal to give hearing	142
shall direct commissioner to issue permit or withhold same	142
objectors to pay such costs as board may order	142
commissioner may prescribe conditions on which, may be maintained	142
person objecting may appeal to board of appeal	142
board shall then prescribe conditions	142
building limits,	
city council may extend and define	89
commissioner shall prescribe conditions of construction of buildings outside	102
limit of height of	102
cellars	
to be protected from water, etc.	104
grade of	104
chimney, construction of	92
closets not to be constructed under basement staircase	93
concrete buildings, height of	101
external and party walls of	101
combustible articles, buildings not to be used for storage of, except excavations to be protected	142
building to be supported	102
owner of adjoining building may recover expense made necessary by, permanent to be protected by retaining walls	102
commissioner may furnish required support for	103
expense therefor to be paid by persons liable	103
fire escape and egress from	102
may have monumental stairway	102
fireproofing	
heat, structural metal to be protected against effect of	106
character of protection	106, 107
how applied	106
thickness of on floor and roof beams	107
on columns	107
terra-cotta blocks, use of	107
trusses, metal work of to be protected	107

BUILDINGS

PAGE

fireproofing, *continued.*

requirements not to apply in certain cases in second or third class buildings	107
studding and furring	
spaces between and behind to be filled solid	107
stringers of stairs and joists of landing spaces between to be stopped solid	108
floor beams, spaces between to be stopped	108
floors to be stopped by layer of asbestos	108
furnace and smoke pipes, distance of, from wooden beams or ceilings	108
register boxes in floors or partitions to be set in soapstone or	108
indirect hot water or steam pipes, commissioner may dispense with requirements in case of	108
partitions in first class buildings, how constructed	108
first and second class buildings, classification and construction of	100, 101
first story may be used for mercantile purposes	101
floors in second class buildings, construction of	92
walls, construction of	92
headers, trimmers and tail beams to be hung in stirrup irons, etc., ...	92
wooden buildings not to be altered without permit	92
shall not be moved, etc.	92
party wall, recess or chase in	92
timbers entering	92
outside finish to be of incombustible material	92
first class buildings	
vertical openings in to be fireproofed	101
shall have fire sprinklers	101
ingress and egress of	101
second class buildings	
restriction of floor area in	101
vertical openings in to be fireproofed	101
to have automatic doors, etc.	102
outside openings to have metal frames and sashes	110
foundations of first and second class buildings	
to be of brick, stone or concrete	103
limit of load of	104
floor timber shall not be within two inches of chimney	93
floors and stairs	
weight carrying capacity of, per square foot	110
of flat roofs	110
of landings, fire escapes, etc.	110
of buildings for manufacturing purposes, etc.	110
reductions of load allowed	110
commissioner may prescribe maximum load on floors of existing buildings	110
furnaces and boilers not to be placed on wooden floor	93
habitation, alteration of building for use as house for	108
mercantile purposes, first story and basement of buildings may be used for	109
provisions relative to	109
occupants of, board of health may by vote limit number of	143
board may order premises vacated if more occupants are allowed	143
building not to be occupied again without permission of board	143

BUILDINGS, continued.

PAGE

may permit sleeping rooms in private stables	143
owner to be responsible for maintenance of buildings and structures	143
lessee under recorded lease, to be deemed owner	143
alterations, procedure when, produce practically new structure	109
fire, etc., repair of building damaged by	109
living rooms, number of windows for	109
not to apply to third class buildings	109
exposure requirements to apply to all buildings for habitation, except	110
hazardous purposes, buildings not to be used for, without permit	141
height of buildings, limit of	102, 144-146
leaders, shall have to discharge roof water	91
shall not project over seven inches into public way	91
masonry shall rest on piles or mud sills	93
materials, quality of	98
commissioner may reject	98
may require tests of	98
mortar, proportion of	98
concrete, requirements for	98
inspection of	98
cement, requirements for	99
reinforced concrete, rules in regard to, and methods of computation	99
common nuisance, building maintained in violation of law to be deemed	144
commissioner may remove same	144
iron buildings, floor openings to be protected during construction of	114
falling materials, workmen to be protected from	114
provisions of chapter shall not deprive any of following named officials of their power, unless, etc., namely:	
the board of health, police commissioner, street commissioners, park commissioners, examiners of gas fitters, commissioner of wires and fire commissioner	90
observation stands, plans of, to be approved by commissioner	93
not to be erected on roof of buildings	92
permit, no building to be constructed or altered without	91
penalty for violations of law	144
persons authorized to enter buildings	144
piles	
buildings to be constructed on, if commissioner so determines	103
shall determine grade at which to be cut	103
inspector to keep record of work	103
concrete piles	
how made	103
reinforced, how made and driven	103
wooden, to be capped with black granite levelers	103
restrictions shall not apply to wharves, market buildings, elevators, etc.	89
shall not apply to buildings on land ceded to the United States	89
nor to buildings owned or occupied by the commonwealth	89
nor to Suffolk county court house, jail or house of correction, ...	90
nor to railroad stations	90
nor to portable schoolhouses	90
nor to voting booths	90
roof of buildings, access to	91
fire, egress in case of	91
fireproof stairways	91

BUILDINGS

PAGE

roof of buildings, <i>continued</i> .	
observation stand not to be erected on	92
snow, ice, etc., on	92
smoke pipe not to project through external wall or window	93
snow, not to be discharged upon public street from roof of building	92
stables, buildings not to be used for, unless	93
board of health to give public hearing	93
may allow sleeping rooms in private	143
steam and hot air pipes not to be within one inch of woodwork unless	93
stove fronts, construction of	92
stresses, for timber, iron, etc., table of	93
studding or furring, not to be within one inch of chimney	93
temporary structures, erection of	89
terms used in building laws defined	90
ventilating flues, construction of	92
walls	
may be built in part of iron, etc.	105
beams and girders to be riveted to each other	105
to be securely bolted at angles	105
united by anchors	105
brick heading or bonding	105
diagonal headers not to be used	105
may be built hollow, when	105
shall contain same amount of material as solid	105
thickness of masonry	105
ashlar not to be included in thickness of, unless	104
to be properly bonded	104
stone cornices	106
foundation, thickness of	104
hearths, construction of	106
outside, to have curtain walls of masonry, etc.	105
construction of, when not designed to carry weight of floors on	
roof	105
beams or columns, strength of	105
party and external, thickness of	104
height of, above roof	106
shall be capped	106
piers and walls shall have caps and plates	106
water-closets, number of to be determined by board of health	91
construction of	92
wooden buildings	
construction of	113
not to be erected within five feet of line of lot, unless	113
distance of from adjoining lot	113
from any other building	113
foundation of	113
thickness of	113
elevators	
construction of	111, 112
inspection and repairs of	112
inspectors of, commissioner may appoint	113
number of	113
not to be installed without permit	112

BUILDINGS

PAGE

elevators, continued.

applicant shall submit plan	112
persons operating, age of	112
safety attachment to be provided	111
safety devices to be tested before, are installed	112
unsafe, commissioner, to post warning at entrance of	111
penal offence to operate thereafter until, etc.	111

enforcement of provisions of chapter

equity court to have jurisdiction	143
may restrain unlawful construction, etc., of any building	143
may compel compliance with provisions of chapter	143
may order removal of building, etc.	143
may authorize commissioner to remove same at owner's expense	143
prosecutions, etc., municipal and superior courts in Boston to have jurisdiction	144
court to advance case at request of either party	144

gas fitting

commissioner to license gas fitters	155
may revoke licenses	156
to be member of board of examiners	154
shall appoint inspectors of gas fitting	155
shall fix their compensation	155
may remove inspectors	155
to grant permits for gas fitting	155
shall make annual report	156
gas fitters to file application in office of	156
shall furnish plan if required	156

height of buildings

Copley square, height of buildings on, limited to one hundred feet	144
steeples and ornaments, etc., may be erected above such limit	144
Bowdoin and Beacon streets, limit of height of buildings on part of, District A and B, city divided into	145
boundaries of, established by commission on height of buildings, to continue until December 5, 1919	145
boundaries of parts of District B also to continue until said day	145
District A, no building in, to exceed one hundred and twenty-five feet in height	145
District B, no building in, to exceed eighty feet in height, except	145
district bounded by Beacon, Joy, Myrtle, and Hancock streets and Hancock avenue, limit of height of buildings in	146
parkway, boulevards, etc., limit of height of buildings on line of	146
damages for limitation of height of provision in cases where owner of land has received	146
courts to enforce provisions of law	146
churches, steeples, towers, etc., limitation not to apply to	146
shall not apply to sugar refineries in District A	146
Rutherford avenue, width of between Chapman street and Boston and Maine railroad tracks established	146
height of buildings on part, limited	146

BUILDINGS, *continued.**Plumbing.*

plumber, shall not engage in work unless registered	134
shall apply for permit before doing any work, except	135
shall file plan of work	135
buildings may have common sewer connection, when	135
shall not be covered until approved by commissioner	135
bathrooms and kitchens over each other, manner of connecting waste and vent pipes	137
chemical laboratories, fixtures, etc., how to be installed	136
clean-outs, to have brass screw cap	138
connections to lead bends not permitted, except	135
how made between lead and iron	138
drain and connecting ventilation pipes, etc. size and gauge of	140
underground to be made of cast iron	140
above ground of cast or wrought iron	140
lead pipes, when may be used	140
cast iron to extend not less than ten feet from wall of building to be extended to and through roof	140
to be supplied with Y-branch fitted with brass clean-out or direction of, changes to be made with curved pipes	140
drain pipes to be exposed where practicable	140
surface drain in cellar to have deep seal trap and backwater valve, tables of diameters and weights of brass pipes	141
fittings of, for waste, soil or refrigerator, character of	137
gasoline, etc., special trap in buildings, where used	140
grease trap, to be supplied when	141
hotels, restaurants, etc., waste pipe from sink to have grease trap	141
brass pipe, kind and gauge of	138
table of average thicknesses and weights per lineal foot of	139
cast-iron pipes, character of	139
table of weights of, per lineal foot	139
cement, not permitted	139
connections between iron and tile pipes or brick drains not per- mitted	139
drip or overflow pipes to be in open sight	137
not to connect directly with drain pipe	137
lead pipes, restriction as to use of	138
"short branches," meaning of term	138
tables of thickness and weight of	138
waste pipes to be furnished with separate trap	135
soil or waste pipes, lateral branches to be extended through roof	135
wrought-iron pipe, table of thickness and weight of, per lineal foot	139
vent pipes	136
privy vaults, construction of	137
rain water leaders	141
provisions covering	141
refrigerators to be supplied with trap	137
sinks, construction of	135
stables, drainage of, how constructed	136
steam, vapor or hot water not to be discharged into sewer or drain or anything that shall cause obstruction	140

	PAGE
BUILDINGS, <i>continued.</i>	
steam boilers	141
terms used, definition of	134
traps, construction of	136
earthenware traps, how constructed	135
non-syphon traps, type of to be used	141
vehicles, waste pipe for washstand to be provided with sand box	141
water-closets, construction of	137
<i>Tenement Houses.</i>	
alcoves	122
provisions for light and ventilation of rooms not to be reduced, etc.	125
building limits, outside of, may be of wood	117
not to be increased in height	117
bakery, etc., not to be maintained in unless	118
openings into from house not permitted	118
ashes, garbage, etc., suitable receptacles to be provided for	126
not to be placed in yards or areas	126
bulkheads, fireproof, in roof of	116
provisions in regard to	116
courts and yards	
requirements and extent of	118
depth of, how measured	118
yard of one house not to satisfy requirement of yard of another, ...	119
outer court, width of, where one side is on lot line	120
inner court, width of, when one side is on lot line	121
not to be diminished in size by erection of other buildings on lot, ...	121
to be properly graded, etc.	126
elevator and dumb-waiter shafts, construction of	118
existing tenement houses	
floors and wall surfaces to be kept in order	126
public halls, doors from, to have translucent glass panels	125
sink, each apartment to have	126
water, to be furnished on each floor	126
suitable tanks and pumps to be provided	126
to have ventilating skylight	125
water-closets in, provisions in regard to	125
fire escapes for	115
character of	115
to be accessible to apartments	115
interior, construction of	115
balconies, width and strength of	116
rails on	116
entrance halls, construction and width of	117
separate hall, what shall constitute	123
area of windows for	123
when windows may be omitted	123
inflammable substances, etc., precautions where stored	118
fireproof doors to be provided	118
rooms, provisions in regard to	122
not to be occupied for living purposes, unless (1) at least eight and one-half feet high; (2) provided with separate water-closet; (3) provided with windows opening on street; or (4) floor and walls are dampproof and waterproof	123

BUILDINGS

PAGE

existing tenement houses, *continued.*

roof, construction of	123
scuttle in roof of	116
size and construction of	116
stairways	
stair halls, construction of	117
stairs to roof, not to be removed	116
from entrance floor to roof to be provided	116
additional, separate	116
public halls and stairs, width of	116
stairway, entrance to, on entrance floor	116
rise and treads of	116
windows	116
terms used, definitions of	
vent shaft, size of intake	118
skylight of, to be raised	118
top of walls and skylight space between to be open, except, etc.	118
water-closets, one in every apartment to be accessible without passing through any bedroom	123
provisions in regard to	124
drop traps not permitted	124
windows, area of	122
size of	124

Theatres.

definition of theatre	126
no existing building used as, to be altered unless	126
every theatre hereafter built to be of fireproof construction except, provisions in regard to	126 127
aiales and stairways, temporary seats, etc., not allowed in	133
no person to remain in during performances	133
balconies two exits to be provided for each gallery and balcony, width of exits	129 129
boiler, furnace, etc., not to be located under auditorium	131, 133
curtains, to be raised at beginning and lowered at end of perform- ance	133
proscenium to have fire-resisting curtain	127, 133
construction of, if iron	127, 133
emergency stairs and exits, building of	129
commissioner may require greater number of	130
exits and fire escape openings to, to have illuminated signs bearing words "Exit" or "Fire Escape" respectively	130 130
exits, lobbies, stairs, etc., to be lighted independently of stage, etc.	130
signs to be kept illuminated during performances	130
outside balconies and fire escapes same	130
plans of exits and stairways to be printed on programme	130
auditorium, lobbies, etc., lighting of, to be independent of stage	133
signs, fire escapes, etc., to be kept illuminated during performances, ...	133
gas pipe outlets to be supplied	130
burners to be inspected once every three months	130
provisions to apply to buildings now used as theatres	130
halls and places of public assembly to be of fireproof construction, except	131

BUILDINGS

PAGE

theatres, *continued*.

capacity of, how estimated	132
lobbies, foyers, etc., capacity of	128
exit doors, number of	128
mirrors, how placed	129
false doors or windows not allowed	129
common exit may serve for first floor and first gallery provided	129
moving picture shows, provisions in regard to	132
exits, stairways for, shall conform to requirements concern- ing	132
programmes — plans of exits and fire escapes to be printed on, ...	130, 133
radiators or floor register not to be placed in aisle or, etc.	131
to be placed in recesses in wall	131
roof gardens, etc., provisions concerning	132
aisles	128
skylight coverings, to have sheet metal frames set with double thick glass	128
sprinklers, proscenium and stage to be provided with automatic, ...	131, 134
stage, construction of	127
ventilators, provisions concerning, above highest part	127
standpipes, two on every stage to be provided	131, 134
stairs, construction of	130
to have intermediate rails, when	133
stores, etc., part of building may be used for, provided, etc.	127
entrances to	127
summer theaters, construction of	132
auditorium, construction of	132
material of cord	133

BUTCHERS' SLAUGHTERING AND MELTING ASSOCIATION

slaughtering not to be done except on premises of	165
to slaughter animals and prepare meat, etc., for market	165
price for, how fixed	165
board of health to appoint inspectors	165
duties of inspectors	165, 166
salaries of inspectors	166
shall have access to premises of	166
board of health may make other regulations	166

C.

CAMBRIDGE, City of

maintenance of bridges between Boston and	83
Boston Elevated Railway Company authorized to construct subways in	519, 534
See SUBWAYS.	

CAMBRIDGE BRIDGE

Boston Elevated Railway Company to apply for authority to construct	504
---	-----

CAMBRIDGE-STREET SUBWAY. See SUBWAYS.

CAUCUSES. See PRIMARIES, PARTY.

CARRIAGES

in public parks, commissioners may grant concessions for	179
city council may regulate size and shape of	222

CARTS

city council may regulate size and shape of, and their loads	222
--	-----

CEMETERIES

PAGE

board of trustees to be appointed by mayor.	47
term of office of	47
burial grounds, cemetery trustees to have charge of all, owned by city	146
Mount Hope Cemetery, trustees to have charge of	146
to set apart public burying ground in	147
to lay out, in lots, with suitable paths and avenues	147
to plant trees, shrubs, etc.	147
may enclose same with fences	147
may erect suitable edifices, etc.	147
may make by-laws and rules	147
duties of	147
laws and ordinances to apply to	147
public, city authorized to purchase land for, in any town in commonwealth	147
may make rules, etc., for interment of the dead therein	147
consent of town to be first obtained	147

CHARITABLE ASSOCIATION OF THE BOSTON FIRE DEPARTMENT

members of fire and protective departments to have right of admission to,	152
---	-----

CHARLES RIVER

metropolitan park commission authorized to expend money for open spaces along or near	258
act authorizing construction of dam across	278
board authorized to make rules to govern public use of	288
metropolitan park commission to investigate flow of, above Watertown dam	294
authorized to improve banks of	295
authorized to build bridge over, between Newton and Wellesley	310
cost of bridge, how apportioned	310
act prohibiting pollution of, in metropolitan district	327
act relative to use of parks on	328
metropolitan park commission authorized to maintain lower dam across Charles river at Watertown	337
sewerage commission authorized to connect sewerage system with Boston sewers	369

See PARKS, SEWERAGE.

CHARLES RIVER BASIN

city may expend sums for sewerage works in watershed areas tributary to	209
governor to appoint three commissioners	313
to designate chairman	313
term of office of board	313
may be removed for cause	313
salaries of board	313
may appoint secretary, etc.	313
to make annual report to governor	313
to construct dam across river, from Boston to Cambridge	313
dam to occupy site of Craigie bridge	314
construction of dam	314
commission to dredge navigable channels, etc.	314
may take lands and flats	315
park commission to have control of dam upon completion	315
expenses, loan for payment of	316
apportionment of cost	316

	PAGE
CHARLES RIVER BASIN, <i>continued.</i>	
lock, location and construction of	318
enforcement of provisions	318
conditions prescribed by acting secretary of war accepted by common-wealth	323
commission authorized to construct temporary bridge over Charles river	324
care and control of basin and dam transferred to park commissioners	329
act relative to payment of cost of	331
boathouses on, locations for, how granted	338
See PARKS.	
CHARLES RIVER DAM. See BRIDGES, CHARLES RIVER BASIN, PARKS.	
CHARLES RIVER EMBANKMENT	
park commissioners authorized to build	317
may take lands and flats	317
expenses to be paid by city	317
See PARKS.	
CHARLES RIVER VALLEY	
metropolitan board authorized to consider and report upon high-level system of sewerage for	379
to make plans and surveys	380
expense to be assessed upon cities and towns comprised within system	380
board to report to general court	381
additional loan for high-level sewer for	403, 406
act relative to determining location of	405
See SEWERAGE.	
CHARLESTOWN, city of	
territorial limits	2
trustees of poor's fund, how composed	65
powers and duties of trustees	65
may hold property and have management of poor's funds	65
may sell property, etc.	65
school committee to hold school trust fund of	74
harbor, speed of steam vessels in, limited	158
CHELSEA, city of	
maintenance of bridges between Boston and	83, 84
expenses for highways, etc., in Revere and Winthrop not to be assessed upon, ...	148
parkway in metropolitan park, commissioners authorized to complete	294
to be added to metropolitan sewerage system	392
may connect sewers with system	392
loan to meet expense, state treasurer to issue certificates	392
interest and sinking fund requirements, how paid	393
CHESTNUT HILL PARK, control of. See PARKS.	
CHILDREN, trustees for. See PARENTAL SCHOOL, PUBLIC INSTITUTIONS.	
CHILDREN'S INSTITUTIONS DEPARTMENT	
board of trustees to be appointed by mayor	48
how composed	48
not subject to confirmation by aldermen	48
term of office of	48
to serve without compensation	48
shall not be interested in any contract, etc., with department	48
vacancies, how filled	48
organization of board	48
board to choose chairman and secretary	48
powers and duties of	48, 49

CHILDREN'S INSTITUTIONS DEPARTMENT, *continued.*

PAGE

city may take and hold property bequeathed, etc., to department	49
income, how applied	49

CHRONIC DISEASES

city may maintain hospital for	54
--	----

CHRONIC INSANE. See INSANE.**CITY COLLECTOR. See TAXES.****CITY COUNCIL**

of the city of Boston, how composed	21
oath of office	32
organization in absence, etc., of mayor	33
members not eligible to city office during term for which elected	33
powers and duties	33
ordinances enacting style	33
may provide for appointment or election of city officers	34
may choose register of deeds, when	34
may make appropriations	34
to have annual statement of receipts and expenditures published	34
may require bonds of city officers	34
may appropriate money for relief of poor	34
limitation of authority of	34
not to make contracts	34
not to employ labor	34
not to purchase supplies, etc	34
may pay sum of money to widow, etc., of deceased employee	37
each branch may require information from head of departments	39
may appoint committee to obtain information	39
committee may summon, etc.	39
may make ordinances as to duties of trustees of city hospital	54
may maintain hospital for insane	56
may make ordinances as to duties of trustees of the public library	59
members of, ineligible to election to school committee	72
no member of, to hold office of superintendent or assistant superintendent of schools	73
to determine compensation of master of house of correction	181
to establish rules in regard to keeping and transportation of gunpowder	192
to publish rules in newspapers	192
may appropriate money for construction of sewerage works	204
may borrow money for construction of sewers	204
may appropriate money for maintenance of sewers	204
may regulate size and shape of carriages, etc., and their loads	222

CITY HALL

city may erect, on public garden	179
--	-----

CITY OFFICERS. See OFFICERS AND BOARDS.**CITY REGISTRAR. See REGISTRY DEPARTMENT.****CITY TREASURER. See TREASURER.****CLERK, city**

choice of, and term of office	40
duties of	40
vacancy, how filled	40
<i>pro tempore</i> , appointment of	40

CLINTON, town of

metropolitan water board authorized to erect and maintain plant for disposal of sewage of	440
settlement of damages sustained by	453, 475

	PAGE
COLUMBIA ROAD. See PARKS.	
COMBUSTIBLE MATERIALS, storage of, etc.	
no building to be used for, without permit	141
not to be stored in dwelling houses	142
fire commissioner may order removal of, when	151
penalty for refusal to comply	151
COMMON COUNCIL	
branch of city council	21
election of members	31
vacancies, how filled	31
powers and duties	32
quorum of	32
may choose a president and clerk	32
shall determine all questions as to qualification and election of its members,	32
salary of members	32
bills for refreshments and carriage hire not to be paid by city	32
COMMON	
buildings not to be erected on	179
not to be leased or sold	179
occupation of, by Boston Elevated Railway Company	487
COMMON VICTUALLERS	
how licensed	188, 191
no fee to be charged	189
license to specify street, number, etc.	189
term of license	189
licensing, vested in licensing board	245
COMMONWEALTH	
metropolitan park commission may accept and maintain lands, etc.,	
given to	264
liability of, for defects in streets, etc., in park system	274
conditions prescribed by acting secretary of war relating to construction	
of Charles river dam, accepted by	323
COMMONWEALTH PLAYGROUND. See PARKS.	
CONDUCTORS	
of street cars, police commissioner to license	198
See STREET RAILWAYS.	
CONSTABLES	
bonds of, and sureties therein	149
shall not serve until bond is filed	149
amount of bond	149
bond be approved by mayor and aldermen	149
proceedings in suits upon	149
suits to be in name of city treasurer, provided	149
bonds of constables	149
mayor and aldermen to approve	149
copy of bond of to be furnished by city treasurer to any person applying	
and paying therefor	150
constables to execute warrants issued to them by treasurer and collector	
of city	149
mayor may remove, with consent of aldermen	150
CONSUMPTIVES, hospital for	
trustees authorized to hire beds in private hospitals pending erection of .	166
amount to be paid for beds	166

CONTAGIOUS DISEASESpersons having, how disposed of. See **HEALTH**.powers of board of health in regard to. See **BUILDINGS AND HEALTH**.**CONTRACTS**

city council not to make	34
to be in writing	38
to be accompanied by bond	38
not to be altered except	38

COPLEY SQUARE

limit of height of buildings around	144
See PARKS .	

CORRECTION, house of

finer and fees received by master of, to be paid to city collector	148
to make detailed statement of	148

COUNTY COMMISSIONERS

aldermen to have powers of	30
--------------------------------------	----

COURTS

clerks of, not to be paid fees in city actions	44
clerks of, to pay fines and fees received to city collector	148
to make detailed statements of	148
clerks of municipal, to pay to city collector, monthly, balance of money due county of Suffolk	149
shall make detailed account thereof.	149
penalty for neglect	149

CRADOCK BRIDGE. (Medford.)

metropolitan park commission authorized to lengthen	337
---	-----

D.**DAMAGES, for taking land for or for establishing**

engine houses	68
health, board of, destruction of buildings by	64
libraries	68
markets	169
parks	171
sanitary purposes, Dorchester	222
schools	68
sewers	206
streets and highways	
generally	215
specific repairs	221
entry on land for preliminary survey, etc.	213

DEAF MUTES

school for education of	201
See HORACE MANN SCHOOL .	

DEBT. See INDEBTEDNESS.**DEDHAM, town of**

act to provide system of sewage disposal for	355, 369
--	----------

DEEDS

register of, when city council may choose	34
---	----

DEER ISLAND

penal institutions commissioner to have charge of	63
---	----

DETECTIVES, private

police commissioner may license	188
---	-----

	PAGE
DETECTIVES, <i>continued.</i>	
fee for license	188
to give bond with sureties	188
shall not have powers of constables	188
penalty for acting without license	188
DISCHARGED PRISONERS	
institutions registrar to investigate questions concerning	57
DOGS	
shelter for unlicensed or stray, authorized	191
not to be established when adjoining owner objects	192
mayor to issue warrant for seizure of stray	192
compensation of officers	192
bills, how approved	192
dogs to be kept in shelter	192
owner may redeem, etc.	192
society may cause to be killed	192
not liable for license fee or for keeping dog	192
aldermen to prescribe price for redeeming dog	192
money received to be paid to city treasurer	192
DORCHESTER, town of	
territorial limits	2
street commissioners authorized to take land and flats in, for sanitary division of street department	221
DORCHESTER BAY	
sewage from main sewer, etc., not to be discharged into	209
DRAINAGE	
act requiring separate systems of, for surface water and sewage	404
DRAINS. See BUILDINGS; HEALTH; SEWERS.	
DRILL, military	
not allowed on public parks, except	179

E.

EAST BOSTON FERRIES	
See FERRIES.	
EAST BOSTON TUNNEL	
construction of, authorized	505
to be leased to Boston Elevated Railway Company upon completion	505
annual rental, amount of	505
toll, city to charge	505
railway company to collect as agent of city	506
loan for payment of expense	506, 516, 517
may be connected with existing subway or Cambridge-street subway	509
See SUBWAY.	
ELECTION DEPARTMENT	
board of commissioners to be appointed by mayor	49
how composed	49
not subject to confirmation by aldermen	49
term of	49
two to be appointed from each of the two leading political parties, ...	49
mayor to designate chairman	49
may remove any member for cause	49
salary of commissioners	49
powers and duties	49

ELECTION DEPARTMENT

PAGE

board, *continued*.

shall prepare list of jurors	50
shall constitute the Boston ballot law commission	50
powers and duties as such	50
chief justice of municipal court to preside at sittings	50
may appoint a secretary and three assistants	50
exempt from civil service law	50

ELEVATORS

building limit restrictions not to apply to	89
See BUILDINGS.	

ENGINEER, city

to make surveys, plans, estimates, etc., as required by the mayor, city council or city officials	50
to have custody of surveys and plans of streets	50
plans of street commissioners to be filed in office of	213

ENGINEERS

of school buildings, how classified	200
See SCHOOLS.	

EVERETT, city of

parkway in, metropolitan park commissioners authorized to complete	294
to be added to metropolitan sewerage system	375
commissioners authorized to take land, sewers, etc.	376
loan to meet expenses, treasurer to issue certificates	376
to be added to metropolitan sewerage system	392
may connect sewers with system	392
loan to meet expense, state treasurer to issue certificates	392
interest and sinking fund requirements, how paid	393
construction of elevated railway from Sullivan square through cities of Everett and Malden authorized	537
See PARKS; SEWERAGE; STREET RAILWAYS.	

EVERGREEN CEMETERY

control of	175
See PARKS.	

EXPENDITURES, Etc.

may be made by departments in anticipation of appropriations	41
not to exceed one-third of amounts appropriated for previous year, ...	41

EXPLOSIVES

city council to establish rules in regard to keeping and transportation of, ...	192
to publish rules in newspapers	192
penalty for violations, and for selling without license	193
penalty for explosion of, in unlicensed place	193
may be seized for violation of rules	193
storage and manufacture of. See BUILDINGS.	

F.

FANEUIL HALL MARKET. See MARKETS.

FEES, Etc.

to be paid into the city treasury	43
received by county officers to be paid to city collector	148
detailed statements to be made	148
city treasurer to pay witness, etc.	148

	PAGE
FENCES	
on parkways, etc., park commissioners to regulate	178
FERRIES, East Boston	
city to maintain	85
may levy and collect tolls	85
superintendent of streets to have charge of	69
See STREETS .	
FINES	
received by county officers, to be paid to city collector	148
detailed statements to be made	148
imposed to use of commonwealth, county of Suffolk or city to be certified	
by clerk of superior court	148
sheriff or deputies authorized to receive same	149
shall pay same to city collector	149
shall render account of, under oath	149
penalty for neglect	149
FINLAY DAM (Newton)	
across Charles river, metropolitan park commission authorized to	
rebuild	320
FIRE DEPARTMENT	
commissioner to be appointed by the mayor	51
not subject to confirmation by aldermen	51
term of office of	51
salary of	51
powers and duties of	51
to have charge of fire-alarm system	51
shall divide city into fire districts	51
shall establish fire patrol	51
shall appoint chief engineer, etc.	51
chief engineer to direct work of department in case of fire	51
shall act as executive officer of commissioner	51
may appoint a secretary and three assistants	51
appointments to be exempt from civil service law	51
powers and duties of, city council may define, etc.	150
authority of in preventing and extinguishing fires	150
may enter buildings, etc., and make investigation	151
may cause combustible materials to be removed	151
owner of premises may apply to district police	151
unless revoked, order must be obeyed	151
penalty for refusal to comply	151
to compel assistance of spectators at fire	151
penalty for refusing to obey	151
firemen, qualifications of	151
call members, when eligible to appointment as permanent men	151
military duty, members exempt from	151
jurors and constables, members exempt from serving as	151
disabled, city may expend money for relief of	151
members and apparatus of, to have right of way while going to a fire	151
penalty for obstructing	151
members of, and of veteran associations to have right of admission to	
charitable association of the Boston fire department	152
pension roll, disabled members may be placed on.	152
disability to be certified to by physician to the board of health	152
amount of pension in case of total disability	152

	PAGE
FIRE DEPARTMENT, <i>continued</i>	
amount of, to members of permanent force	152
amount of, to members of call force	152
former members eligible to pensions	153
annuity to widow or children of deceased members, when may be paid	153
relief of same, money may be expended for, by commissioner for	153
commissioner may seize gunpowder transported through city in violation of rules	193
may enter buildings where gunpowder is kept	194
penalty for carrying fire through streets, etc.	195
street commissioners may take land for engine houses	68
FIREWORKS	
fire commissioner to license sale of	195
not to be sold without license	195
term of license	195
renewal of, provided	195
commissioner may rescind	195
fee for license	195
money received for, how expended	195
penalty for selling without license, etc.	195
FORT POINT CHANNEL	
Brookline gas light company may lay gas pipes, etc., across	84
FRAMINGHAM, town of	
metropolitan water and sewerage board authorized to relocate public way in	476
FRANKLIN FUND	
managers of, to provide building, etc., for Franklin union	200
FRANKLIN UNION	
city authorized to maintain	200
land for, how acquired	200
building, etc., to be paid for by managers of Franklin fund	200
FULLER'S WHARF	
metropolitan park commission authorized to acquire, in Brighton	296
FURNACES, Etc.	
restrictions, in regard to smoke from	197, 198

G.

GAS FITTING, supervision of, etc.	
no person to engage in business unless licensed	154
"journeyman," definition of term :	154
license, application for, to be made to building commissioner	154
board of examiners, persons, etc., applying for license, to be examined by, ...	154
how constituted	154
compensation of members	154
organization of board	155
to select chairman and clerk	155
to examine applicants.	155
shall certify to building commissioner as to competency of applicants.	155
commissioner to issue license	155
licensee to register name, etc., in office of	155
fee for license	155
inspectors of, commissioner to appoint	155
qualifications of	155

	PAGE
GAS FITTING, <i>continued</i>.	
compensation of	155
may be removed by commissioner	155
shall inspect all new work, etc.	155
shall report violations of law, etc.	155
licensed gas fitters to display license number at place of business	155
gas fitting not to be done without permit from commissioner	155
gas fitters shall file application	156
shall furnish plan if required	156
materials and work, requirements in regard to	156
timbers, etc., depth gas pipe may be let into	156
gas meters, removal of	156
gas brackets, how placed	156
gas company, provisions not to affect operations of, on own premises	156
board of health shall inspect gas fixtures	156
shall make requirements relating thereto	156
owner shall comply therewith	156
penalty for violation of provisions	156
license may be revoked by commissioner	156
annual report, commissioner to make, and include examiner's report	156
GOVERNOR	
may issue arms for use of English High and Latin schools in Boston	200
to appoint police commissioner	231
licensing board	244
metropolitan park commissioners	247
Charles river basin commission	313
commission on public improvements (in part)	341
metropolitan sewerage commissioners	342
metropolitan water and sewerage board	394, 449
metropolitan water board	411
Boston transit commission (in part)	487
GRAIN ELEVATORS. See BUILDINGS.	
GROVES	
for picnics, how licensed	189, 191
penalty for maintaining without license	190
fee for license	191
GUNPOWDER	
city council to establish rules in regard to keeping and transportation of, ...	192
to publish rules in newspapers	192
penalty for violations and for selling without license	193
penalty for explosion of, in unlicensed place	193
may be seized by fire commissioner for violation of rules	193
shall be libeled in court	193
copy of libel to be served on owner, etc.	193
costs, etc., owner to pay if gunpowder is adjudged forfeit, provided	193
libel may be filed in municipal court	194
penalty for attempt to rescue, etc.	194
fire commissioner or deputies may enter building, etc.	194
may enter dwelling, etc., to search for	194
damages for explosion of, how recovered	194
fines and penalties, recovery of	194
quantity, statement of to be furnished to fire commissioner	195
penalty for violation	195

H.

HALLS

regulations in regard to. See BUILDINGS; HEALTH.

HARBOR, of Boston

anchorage limits in, defined	157
penalty for offence	157
harbor master, shall regulate anchorage of vessels	157
may order removal of vessels	157
penalty for neglect to obey	157
vessels to be properly trimmed at wharves	157
penalty for offence	157
warps and lines, regulations in regard to	157
penalty for offence	158
to keep anchor watch and lights	158
penalty for violation	158
ashes, gravel, etc., not to be thrown into	158
penalty for violation	158
rafts, etc., not to be attached to any wharf or bridge without permission, ...	158
penalty for offence	158
steam vessels, speed in, of regulated	158
penalty for violation	158
gravel, sand, etc., not to be taken from islands or beaches in, etc.	159
penalty for offence	159
lines of, established	159
harbor master and assistants to be appointed by police commissioner	242
powers and duties of	242
to protect harbor and enforce laws relating to, and prosecute violations thereof	242
to regulate anchorage of vessels	242
act to authorize laying of water pipes or mains under or over waters of	446

See POLICE.

HARBOR MASTER. See HARBOR.

HARRIS, Charlotte, of Charlestown, bequest of

trustees of public library may remove "Harris collection" of books, etc., from Charlestown to central library	59
may expend interest of Harris fund	59
to comply with provisions of bequest	59
collection to be returned to Charlestown branch library if trustees fail to comply, etc.	59

HAWKERS AND PEDLERS

police commissioner to designate streets and districts where, may stop or stand	224
---	-----

See STREETS.

HEALTH

mayor to appoint board of	52
term of office of	52
powers and duties of	52
may appoint a secretary and three assistants	52
appointments to be exempt from civil service law	52
shall appoint health inspectors	52
powers and duties of inspectors	52
members of board and inspectors to be sworn	52
penalty for failure	52

HEALTH, *continued.*

PAGE

Butchers' Slaughtering and Melting Association, board of health to	
appoint inspectors	165
may make regulations in regard to	166
defective or dangerous buildings, board of health may order vacated	163
order to be posted on building and owner notified	163
building to be vacated within ten days	163
board may revoke order, when, etc.	163
may order destruction of	164
damages, city to pay to owner	164
gas-fitting, board to inspect	156
make requirements relating thereto	156
owner shall comply therewith	156
land, board may order filled to grade	165
owners to fill same	165
justice of any court may enforce provisions	165
private passageways, board may require to be paved	164
shall hear objections of owner	164
justice of any court may enforce provisions	164
may order vacant land on, to be cleaned	165
may clean same at owner's expense	165
expense of work, how paid	165
to be lien upon estate, etc.	165
penalty for obstructing or throwing rubbish in	165
smoke nuisance, board of, to restrict	197
stables, buildings not to be used as, unless authorized by	93
board of health to authorize use of buildings for	166
penalty for violation	166
effect of license	166
tenement and lodging houses	
to have sufficient water-closets	160
board of health to inspect and reinspect	160
shall have adequate chimneys	160
shall have water furnished, etc.	160
floor of cellars to be cemented	160
dangerous articles not to be stored in	160
animals, not to be kept in	160
yards, courts, etc., to be kept clean, etc.	160
tenants to cleanse rooms, floors, etc.	160
owners to whitewash and cleanse	160
to have privies and drains kept in order	161
stairs kept clean	161
janitor, when to be provided	161
infectious disease in, owner to notify board of health	161
board of health to disinfect	161
may cause bedding, etc., to be fumigated or destroyed	161
halls, to have suitable windows	161
cellars, etc., not to be used as dwelling or sleeping place unless, etc.	161
occupants of, board of health may limit number of	162
board shall affix notice in, stating number	162
may order premises vacated if number is exceeded	162
board of health may make other regulations	162
owner of, to leave address with board of health	162

HEALTH

PAGE

tenement and lodging houses, <i>continued</i> .	
occupants of, have name, etc., posted on wall or entry	162
service of notices on	162
police, detail of, to be provided for board of health	162
services of, to be paid for by said board	163
officers to have access to houses	163
enforcement of provisions of law	163
penalty for violations	163
undertakers, board of health to license	166
may make regulations in regard to	166
may establish fees of	167
no person to engage in business of, without license	167
penalty for violations	167
water-closets, shall determine number of, required in buildings	91
water supply, state board to make rules for protection of	423

HEIGHT OF BUILDINGS. See **BUILDINGS.****HIGHWAYS.** See **STREETS.****HOLDEN, town of**

commonwealth to pay sum to annually, on account of construction of metropolitan water system	476
---	-----

HOPKINTON, town of

commonwealth to pay sum to annually, on account of construction of metropolitan water system	455
---	-----

HORACE MANN SCHOOL FOR THE DEAF

building for, to be erected by city	200
deaf mutes to be sent to, by governor	200
sale of property, restrictions on	201

HORSES, sale of, at auction

not to be sold within former building limits except	196
maintenance of place for sale of, within building limits to constitute com- mon nuisance, except	196
penalty for violations	196
provisions of law applicable	196

HOSPITAL, city

object of hospital and incorporation	53
in charge of board of trustees	53
powers and duties	53
may take and hold property bequeathed, etc., to hospital	53
city treasurer to invest money received by board	53
to have custody of securities	53
principal and income of bequests, etc., how expended	53
trustees to be appointed by mayor	53
term of office of	53
vacancies, how filled	53
members may be removed by mayor for cause	53
to serve without compensation	53
organization of board	53
may make rules and regulations relating to hospital, etc.	54
to have care and control of hospital, etc.	54
may appoint superintendent and assistants, etc.	54
may fix compensation of same	54
may remove same	54
city council may make ordinances as to duties of board	54

	PAGE
HOSPITAL, city, <i>continued</i> .	
location of hospital as adjacent to any schoolhouse or church, etc.	54
consumptives, hospital trustees of, authorized to hire beds in private hos- pitals pending erection of	166
amount to be paid for beds	166
wooden buildings for, city authorized to erect temporarily	164
HOUSE OF CORRECTION	
See PUBLIC INSTITUTIONS.	
HOUSE OF DETENTION FOR WOMEN	
police commissioner to maintain	239
See POLICE.	
HULL, town of	
care and control of Nantasket avenue and other ways in, transferred to metropolitan park commission	291
HYDE PARK, town of	
act to provide system of sewage disposal for	355, 369

I.

ILLUMINATED SIGNS	
regulations in regard to	222
See STREETS.	
INDEBTEDNESS	
portion of amount of bonds for school purposes issued in 1907 and 1908 not to be included within debt limit	76
loans for connecting estates with sewers to be within debt limit	205
INDUSTRIAL SCHOOL	
city authorized to maintain	201
INEBRIATES, Boston Asylum for	
city of Boston may establish, at Deer Island or elsewhere	56
insane hospital trustees to have charge of	56
to determine conditions of admission to	56
INNOLDERS	
how licensed	188, 191
no fee to be charged	189
license to specify street, number, etc.	189
term of license	189
licensing, vested in licensing board	245
INSANE	
insane hospital department	
in charge of board of trustees	55
how composed	55
to be appointed by mayor	55
term of office of	55
to serve without compensation	55
shall not be interested in any contract with department	55
vacancies in board, how filled	55
organization of board	55
may choose secretary	55
city may take and hold property bequeathed, etc., to depart- ment	55
trustees to have care and control of all the city insane hospitals, ...	56
powers and duties of trustees	56
city council may maintain hospital for insane	56

INSANE, continued.

PAGE

city may establish asylums for treatment of chronic insane	56
asylums to be visited by state board of insanity	56
state board of insanity may remove, etc., inmates	56
managers may discharge inmates	56
institutions registrar to investigate questions relative to com- mitment of	57
commitment of	167
trustees may admit, to Boston insane hospitals	167
compensation for care of	167
treatment of persons recently insane	167
institutions registrar to report admissions and discharges of, to state board of insanity	168
feeble-minded persons, commitment of	168
trustees may discharge persons committed to, when	168
may provide for care of such persons outside hospital	168
to have legal custody of discharged insane persons	168
may make provisions for treatment of	168
insane person who has property, not to be restrained except	168
hospitals and insane persons to be under existing laws	169
bills for care of	169

INSTITUTIONS REGISTRATION DEPARTMENT

to be under charge of institutions registrar	57
to be appointed by mayor	57
term of office of registrar	57
not subject to confirmation by aldermen	57
shall not be interested in any contract with department	57
duties of registrar	57
salary of	57
city may take and hold property bequeathed, etc., to department	57
registrar to report admissions and discharges of insane to state board of insanity	168

INTELLIGENCE OFFICES

how licensed	189, 191
fee for license	191
licensing vested in licensing board	245

INTOXICATING LIQUORS

license to sell
See LICENSES.

J.**JAIL**

prisoners to be at liberty, when permit may be issued	181
may have permit to be at liberty for good conduct	182
permit may be revoked	182
expense of maintenance to be paid by city	183
tools, materials, etc., city may advance money for	183
amounts to be expended by keeper of	183
keeper shall provide bedding, clothing, etc., for prisoners	183
shall present account to city auditor	183
shall furnish specific rations, etc., to prisoners when directed by mayor	184
penalty for neglect	184
shall furnish instruction to prisoners	184

	PAGE
JAMAICA POND	
city to have control of	179
JANITORS	
of tenement houses, when to be provided	161
See BUILDINGS.	
of school buildings, how classified	200
See SCHOOLS.	
JUNK	
dealers in, police commissioner to license	191, 196
form and contents of license	191
fee for license	191, 196
term of license	191
revocation of	191
provisions of law to apply to	196
shall display badge	196
dealers in, to keep record of articles purchased	196
book may be inspected	197
shall display sign in shop	197
shall not purchase of minor or	197
articles not to be sold within week, etc.	197
rules to be incorporated in license	197
penalty for violation, etc.	197
JURORS	
election commissioners to prepare list of	50
JUVENILE OFFENDERS	
to be taken into Suffolk school for boys	185
trustees for children to receive	186
may bind out same during minority	186
may discharge same or place on probation	186
may rearrest	186
L.	
LABOR	
city council not to employ	34
LAMPS	
board of aldermen to provide street	198
to make rules and regulations	198
penalty for extinguishing or injuring	198
LAND DAMAGES	
agreements concerning, to be in writing and approved by mayor	39
LANDING PLACES	
approaches to Charles-river bridge to be kept open for	83
LANDS	
board of health may order low, filled to grade	165
owners to fill same	165
justice of any court may enforce provisions	165
LEXINGTON, town of	
portion, to be added to metropolitan sewerage system	370
sewerage commissioners to provide outlet at town line, near Massachu- setts avenue	370
may take lands, etc.	371
loan to meet expenses, treasurer to issue certificates	371
interest and sinking fund requirements, how apportioned	373

LIBRARY, public

PAGE

city may maintain public library	58
city council may make expenditures for	58
may make regulations, etc.	58
trustees to continue a corporation	58
may take and hold property bequeathed to library	58
to be appointed by mayor	58
term of office of	58
vacancies in board, how filled	58
may be removed by mayor for cause	58
to serve without compensation	59
organization of board of	59
shall choose a president	59
may make rules and regulations, etc.	59
to have care and control of central library and branches	59
to have control of expenditures	59
may remove "Harris Collection" from Charlestown to central library	59
may expend interest of Harris fund	59
shall comply with provisions of Harris bequest	59
collection to be returned to Charlestown if trustees fail to comply with provisions	59
may appoint a superintendent or librarian	59
may appoint assistants and subordinates	59
may fix compensation of same	59
city council may make ordinances as to duties of trustees	59
trustees shall present report semi-annually	59
money received by, to be invested by city treasurer	58
city treasurer to have custody of securities	58
principal and income, how expended	58
city to have perpetual right to land granted, corner Dartmouth and Boylston streets for central library building	60
conditions of grant	60
land to be forfeited if used for any other purpose	60
street commissioners may take land for	68

LICENSES

not to protect holder in any other building than that specified in license	189, 191
fee for	191
term of	191
to be recorded	191
revocation of	191

Licensing Board.

to be appointed by the governor	244
members not to be interested in manufacture or sale of intoxicating liquors	244
chairman to be designated by governor	244
term of office of members	244
vacancies in board, how filled	245
may be removed by governor for cause	245
to appoint secretary	245
to be exempt from civil service law	245
duties of secretary	245
term of office of	245

LICENSES, continued.**PAGE***Licensing Board, continued.*

may be removed by board	245
salaries of board and secretary	245
to be paid by city	245
board to have rooms at headquarters of police commissioner	245
expense to be paid by city	245
may employ clerks, etc.	245
may employ legal assistance	245
all expenses to be paid by city	245
powers and duties of	245
to issue licenses for sale of intoxicating liquors	245
to license innholders and common victuallers	245
to license picnic groves, skating rinks, intelligence offices, billiard, pool, or sippio tables and bowling alleys	245
licenses to be signed by majority of members of board	246
fees to be paid into city treasury	246
to make annual report to governor	246
records to be open to inspection of governor, mayor, etc.	246
board shall certify to police commissioner names of applicants for license and of licensees, etc.	246
license forfeited if conditions are violated	246
board to notify and give hearing	246
licensee thereby disqualified to receive a license for year	246
no license to be exercised on premises.	246
number of licenses in Boston	246
midnight, sale of liquor until, may be allowed, etc.	246
number of such permits limited	246

LIGHTERS

weighing and inspection of. See BALLAST.

LITTLE RIVER

act authorizing improvement of	308
--	-----

LOANS

amount of, to be regulated	41
mayor to certify in regard to	41
transfers from, not to be made unless	41
city auditor and city treasurer may use funds raised by loan	42
for street construction to be within debt limit	218

LYMAN SCHOOL FOR BOYS

commitments to	184
--------------------------	-----

See PARENTAL SCHOOL.

M.**MALDEN, city of**

portion of to be added to metropolitan sewerage system	375
commissioners authorized to take lands, sewers, etc.	376
loan to meet expenses, treasurer to issue certificates	376
act to provide for extension of metropolitan sewer in	407
construction of elevated railway from Sullivan square through cities of Everett and Malden authorized	537

MALDEN RIVER

bridge to be built over, within limits of Revere beach parkway.	321
---	-----

MANUFACTORIES, Etc. See BUILDINGS.**MARBLEHEAD WATER COMPANY**

act relative to purchase and sale of property of	434
--	-----

MARLBOROUGH, city of	
authorized to provide sewerage and protect purity of Metropolitan water supply	465, 467
MARINE PARK. See PARKS.	
MARKETS	
building limits, restrictions not to apply to market buildings	89
police commissioner to appoint and have charge of police for	232, 233
Faneuil Hall market, land taken for, not to be used for any other purpose,	169
limits of, board of street commissioners may extend	169
may take land for purpose	169
damages for land taken, how determined	169
streets within limits of, may be occupied for market purposes, provided	170
MASSACHUSETTS, commonwealth of	
building limit restrictions not to apply to buildings owned or occupied by,	89
authorized, with city of Boston, to restore Old State House	180
MASSACHUSETTS REFORMATORY	
commitments to	184
See PARENTAL SCHOOL.	
MASSACHUSETTS SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS	
authorized to maintain shelter for stray dogs	191
not to be established when adjoining owner objects	192
may cause dogs to be killed	192
society not to be liable for license fee or for keeping dog	192
MAYOR OF BOSTON	
principal officer of city council	21
election of	22
proceedings in case of failure to elect	22
vacancy in office, how filled	23
"acting mayor" provision, relative to	23
oath of office, how administered	23
powers and duties	23
appointments of, and removals from office	24
approval or disapproval of votes and orders by	24
proceedings in case of veto by	24, 25
partial vetoes by	25
to consult with heads of departments	25
salary of	25
Randidge trust fund, income of	26
may administer oath of office to members of city council	32
to approve architect of public buildings	39
to submit estimates of heads of departments to city council	39
to approve agreements in regard to land damages	39
to appoint city treasurer annually	40
to appoint city collector annually	44
to appoint art commissioners	45
to appoint building commissioner	46
to appoint board of appeal in building department	47
to appoint trustees of cemetery department	47
to appoint board of trustees of children's institutions department	48
to appoint board of election commissioners	49
to appoint fire commissioner	51
to appoint board of health	52
to appoint trustees of city hospital	53

	PAGE
MAYOR OF BOSTON, <i>continued.</i>	
to appoint insane hospital trustees	55
to appoint institutions registrar	57
to appoint trustees of the public library	58
to appoint board of park commissioners	60
to appoint trustees of pauper institutions	61
to appoint commissioner of penal institutions	62
to appoint overseers of poor	63
to appoint a city registrar	66
to appoint a soldiers' relief commissioner	67
shall fill vacancies in board of street commissioners	68
to appoint water commissioner	69
to appoint commissioner of wires	71
to appoint schoolhouse commissioners	75
to approve orders of school committee for issue of bonds	76
to be member of board of sale of school property	78
to appoint commissioners of Cambridge bridges	83
transfers of appropriations not to be made without approval of	41
to certify in regard to loans	41
preliminary plans of elevated railway to be filed with	499
may order money advanced for tools, materials, etc., for jail and house of correction	183
money to be expended under his direction	183
may direct specific rations, etc., to be furnished prisoners	184
penalty for refusal by keeper or master	184
may, with sheriff, furnish instruction to prisoners in jail and house of correction	184
to license theatres and public halls	190
mayor and aldermen to regulate sales, etc., by minors	189
dogs, to issue warrant for seizure of stray and unlicensed	192
to approve plans prepared by street commissioners	213
to approve orders of, for laying out streets	215
to approve contracts for construction of streets	216
records of street commissioners to be open to at all times	224
riot, etc., authorized to assume control of police in case of	234
may suspend liquor licenses during, etc.	244
to approve retirement and pensioning of police officers	237
headquarters of police department, mayor to approve site and plans for building for	238
MEDFORD, city of	
act defining limits within which land may be taken for metropolitan park system	259
MEETINGS	
annual for election of city officers	19
general, how called	20
proceedings if aldermen, refuse to call	20
MELROSE, town of	
metropolitan sewerage commission authorized to take sewer in, and connect with system	361
MERCHANDIZE	
street commissioners may issue licenses for storage and sale of, in public streets	223
See STREETS.	

METROPOLITAN DISTRICT

PAGE

public improvements for	
governor and mayor of Boston to appoint commission to investigate subject of	341
to serve without compensation	342
authorized to expend money for clerical and expert assistance and incidental expenses	342
to report to governor and mayor of Boston before December 1, 1908	342
expense to be assessed upon metropolitan parks district	342

METROPOLITAN PARK SYSTEM. See **PARKS.****METROPOLITAN SEWERAGE SYSTEM.** See **SEWERS.****METROPOLITAN WATER SYSTEM.** See **WATER.****METROPOLITAN WATER AND SEWERAGE BOARD**

act to establish	394, 449
governor to appoint board	394, 449
term of office of members	395, 449
salary of members	395, 449
removal of	395, 449
vacancies, how filled	395, 449
metropolitan water board and board of metropolitan sewerage commissioners abolished	395, 449
new board to be successor of former boards	395, 449
powers and duties of	395, 449

MIDDLESEX FELS

metropolitan park commission authorized to establish zoölogical garden in	338
---	-----

MILITARY PARADES, Etc.

not allowed on public parks, except, etc.	179
---	-----

MILK

health inspectors to be inspectors of	52
---	----

MILTON, town of

act to provide system of sewage disposal for	355
Neponset valley sewer to be extended into	363, 369
act to supply with water	456

MINORS

sales, etc., by, how regulated	189
how licensed	189, 191
penalty for selling, etc., without license	189

MOON ISLAND

city may discharge contents of main sewer in harbor at	209
--	-----

MOTORMEN. See **STREET RAILWAYS.****MYSTIC RIVER.** See **PARKS.**

metropolitan park commission authorized to make rules to govern public use of	288
authorized to build bridge over	302
act authorizing construction of dam across, at Cradock bridge, Malden	322
state board of health to report on purification of	323
act relative to purification of	334, 339

N.**NAHANT BEACH.** See **PARKS.**

act to provide for construction of bath house on	321
--	-----

	PAGE
NASHUA RIVER. See WATER.	
board authorized to construct reservoir upon	414
damages on account of construction of reservoir upon, how determined and paid	418, 419, 440
act relative to protecting purity of water supply from	464
NANTASKET AVENUE, Etc.	
care and control of, transferred to metropolitan park commission	291
NANTASKET BEACH	
metropolitan park commission authorized to take and control	286
additional appropriation for	300
NATICK, town of	
authorized to enlarge and improve system of water supply.	461
metropolitan water and sewerage board authorized to sell certain property in, for widening railroad	480
NEPONSET RIVER. See PARKS.	
metropolitan park commission authorized to make rules to govern public use of	288
board required to rebuild bridge over	292
metropolitan sewerage commission to provide sewerage system for	355
extension of sewer into town of Milton, authorized	363
commission authorized to connect system with Boston sewers	369
loan to meet expenses, authorized	373-375
board authorized to consider and report upon high-level system of sewer- age for	379
to make plans and surveys	380
expense to be assessed upon cities and towns comprised within system . .	380
board to report to general court	381
additional loan for, authorized	381-383
interest and sinking fund requirements, how paid	382
supreme court to appoint commissioners to determine amounts	382
amounts to be included in annual state tax of city and towns	383
compensation of commissioners, court to fix	383
NEPONSET RIVER VALLEY	
additional loan for sewer construction for	402
additional loan for high-level sewer for	403
NEWTON, city of	
may discharge sewage into Boston sewers, etc.	209
metropolitan board to provide additional sewerage facilities for. . . .	395
NORMAL SCHOOL	
men may be admitted to	200
See SCHOOLS.	
NUISANCE	
board of health may order building vacated on account of	163
maintenance of place for auction sale of houses, within building limits to constitute, except	196

O.

OATH OF OFFICE

See TITLES OF CITY OFFICERS.

OFFICERS AND BOARDS

appointment and removal of, by mayor	24
mayor to consult with	25
city council to provide for appointment or election of	34

OFFICERS AND BOARDS, *continued*.

PAGE

commencement of term of office	37
tenure of office of	37
removal of	37
definition of term "subordinate"	37
tenure of office of subordinates	37
may make contracts, etc.	38
to have control of executive business	38
to have care and custody of public works, buildings, etc.	38
may expend public money	38
to make contracts for erection or repair of public buildings and invite proposals therefor	38
proposals to be accompanied by bond or	38
contracts to be in writing	38
to be accompanied by bond for faithful performance	38
to submit annual estimates to mayor	39
agreements as to land damages	39
to furnish information to either branch of city council	39
may be summoned, etc.; by special committees of city council	39
justice of supreme judicial court may compel attendance of, before committees	39
OLD STATE HOUSE	
preservation of	180
not to be used for business purposes, except	180
Boston transit commission may use basement, etc., for transit purposes	180
restoration of	180
appropriation therefor	180
violations of law, how restrained	180
OPEN SPACES, for public meetings, etc. See PARKS.	
ORDERS, Etc.	
enacting style of	31
ORDINANCES	
enacting style	33
fines for breach of	33

P.**PARENTAL SCHOOL. See PUBLIC INSTITUTIONS.****PARKS**

park commissioners to be appointed by the mayor	60
term of office of	60
vacancies in board, how filled	60
may be removed by mayor for cause	60
compensation of	60
may locate parks within city limits	60
may take land for purpose	61
may make rules and prescribe penalties for violations thereof	61
may appoint engineers, etc., and define their duties	61
shall not take land, etc., until appropriation has been made therefor by city council	61
shall make annual report to city council.	61
boats, carriages, may grant concessions for, provided	179
boathouses, refectories, may lease buildings for	179
boulevards, limit of height of buildings on	146

PARKS, *continued.*

	PAGE
bequests for, city authorized to take and hold	171
betterment, assessments for	171
amount of, that may be assessed	171
time within which assessments may be made	171
owner of real estate may apply for revision	172
assessments, abatement of	172
assessments to constitute lien on real estate	172
collection of	172
may be apportioned	172
party aggrieved may have amount assessed by jury	172
on leased property, how paid	172
Charles river embankment	
to be built on Boston side of Charles river	173
extent of	173
taking of land for, by Charles river embankment commission	173
shall file description thereof	173
Back street not to be taken	173
nor any land on north side of Beacon street	173
damages for taking, how determined	173
betterment may be assessed on real estate adjoining	174
amount of assessment	174
person aggrieved may petition for trial by jury	174
cost of construction to be apportioned	174
city to pay its portion to commonwealth	174
betterment, bills for, to be collected by city collector	174
betterments collected, to be applied to payment of cost of construction of	174
and to payment of interest and sinking fund requirements	174
city treasurer to issue and sell bonds of city to meet payments	175
Chestnut Hill park	
board of park commissioners to have care of	175
boundary of	175
may take other land within boundary	175
may assume care and control of land	175
powers of park commissioners	175
may sell land of city within boundary, etc.	175
proceeds to be used in payment for lands taken	175
Columbia road	
street commissioners may lay out as parkway	175
park commissioners to have charge of	176
Commonwealth playground	
boundary of	176
city authorized to use as playground until, etc.	176
no permanent buildings to be erected thereon	176
rights of commonwealth in	176
Copley square	
city may hold and control	176
to be kept open as park	176
commonwealth to take possession of, if used for any other purpose, ...	176
Evergreen cemetery, provisions not to apply to	175
Jamaica pond and Ward's pond	
city to have control of	179
land, taking of, for	171

PARKS

PAGE

land, taking of, for, *continued*.

park commissioners to file description of	171
damages on account of taking, how determined	171
fee of land taken to vest in city	171
city to be liable for damages, etc.	171

Marine park

park commissioners to lay out as public park	177
land of commonwealth enclosed in, to be used solely for	177
parkways and public ways, park commissioners may connect	178
to have care and control of parkways, etc.	178
may make rules and regulations	178

Scigliano park

park commissioners to have charge of	176
open spaces, playgrounds, etc., street commissioners may take land for	177
damages for taking land, how determined	177
commissioners to file description of	177
damages for taking to be paid by city	177

playgrounds, park commissioners may take land for, system of provided, etc.

provisions of law applicable	178
control of, hereafter laid out	178

park police, commissioner to appoint and have charge of, for 232, 233

structures, etc., park commissioners may erect 179

tide water, filling and structures in, time expended 179

trees, powers of in regard to 178

penalty for violations 178

Metropolitan park commissioners

acts establishing board	247, 248
governor to appoint	247, 248
term of office of	247, 248
duties of	247, 248
to make plans and maps	247, 248
to report to general court	247, 248
may employ assistance, etc.	247, 248
to serve without compensation	247, 248
to appoint secretary	248
jurisdiction of board	248

advertisements, board may make rules to protect parks, etc., from

disfigurement by 307

penalty for violation of rules 307

Alewife brook, Little river and Wellington brook act authorizing

improvement of 308

authority of, act to better define 266

takings, exceptions and reservations in, to be made valid 266

authority of board, act to further define 270

apportionment of assessments in metropolitan district 327

betterments, board may assess 253, 264

assessed by board, act relative to 277

bequests, authorized to receive and hold gifts or 249

boathouses on Charles river, locations for 338

official bonds, act relative to, approval of 322

Boston, Revere Beach and Lynn Railroad, board authorized to

acquire and relocate portion of, along Revere Beach 256

damages on account of, how determined and paid 257

PARKS

PAGE

Metropolitan park commissioners, continued.

boulevards and roadways, board authorized to construct	252
buildings, etc., board may erect and maintain	257
certificate of appointment of board	265
Charles river, board authorized to expend money for open spaces along or near	258
act authorizing construction of dam across	278
board to investigate flow of, etc., above dam at Watertown	294
board authorized to improve banks of	295
board authorized to construct bridge over, between Newton and Wellealey	310
cost of bridge, how apportioned	310
pollution of in metropolitan district prohibited	327
act relative to use of parks on	328
board to maintain lower dam across Charles river in Watertown	337
Charles, Mystic and Neponset rivers and other waters, etc., board authorized to make rules and regulations to govern public use of	288
Charles river dam, act authorizing construction of, across, from Boston to Cambridge	313
governor to appoint commissioners	313
conditions prescribed by acting secretary of war accepted, ...	323
Charles river dam and basin, care and control of, transferred to park commissioners	329
relative to payment of cost of	331
compensation of members of board, act to provide	282, 289, 297, 304
counsel, board may employ	265
Cradock bridge, Medford, board authorized to lengthen	337
estimate	
annual, board to prepare	252, 256
expense	
commissioners, supreme court to appoint, to apportion, 251, 255, 269, 279, 284, 303, 332	
compensation of, court to fix	252, 256, 280
portion assessed on cities and towns to be included in annual state tax	252
to be paid to commonwealth	252
enforcement of provisions of acts	252
portions assessed on cities and towns to be included in annual state tax	256
enforcement of provisions	256
Finlay dam, across Charles river, board authorized to rebuild	320
Fuller's wharf, Brighton, board authorized to acquire	296
land	
damages for taking, how determined	250
to file description of, taken in registry of deeds	250
taking of, local boards, etc., to concur with park commis- sion	254
damages, board to determine	254
description of lands, etc., taken, board to file in registry of deeds	254
may abandon, taken and sell same, etc.	263

PARKS

PAGE

Metropolitan park commissioners, *continued*.

land, may accept and maintain any, given to commonwealth, provided	264
may transfer care of, to local boards, etc.	266
liability of commonwealth arising from defects in street on park lands defined	274
loans, park treasurer may issue certificates	250
interest on, etc., apportionment of	251
treasurer may issue certificates	254
interest on, etc., apportionment of	255
amendment to act	257
interest of, etc., and expenses of board, act to provide for	271
commission to be appointed to determine amount cities and towns shall pay annually for interest on, and sink- ing fund requirements of	284
portion to be included in state tax	284
cities and towns may make, beyond debt limit	305
act to establish park loan sinking fund, series two	306
act to provide for interest of, and sinking fund require- ments	300
bonds, premiums, from sale of, how disposed of	328
Malden river, board authorized to build bridge over, within limits of Revere beach parkway	321
Medford, limits within which land may be taken by board in	259
money, act increasing amount of, placed at disposal of, for general purposes	267, 272, 277, 283, 299, 305
act increasing amount of, placed at disposal of, for road- ways and boulevards	268, 273, 285, 309
act to increase amount of, at disposal of board for park purposes	307
Mystic river, board authorized to construct bridge over, between Somerville and Medford	302
board authorized to construct dam across, at Cradock bridge, ...	322
Mystic river, Alewife brook, etc., state board of health to report on purification of	323
act relative to purification of	334
parks, etc., appropriations for	336
Nantasket avenue, etc., board to have care and control of	291
Nantasket beach, etc., board authorized to take and control act to increase amount of money at disposal of board for	286
300	
Nahant beach, board authorized to construct bath house on	321
Neponset river, board required to rebuild bridge over	292
open spaces, authorized to acquire, provided	248
cities and towns may transfer, to care of	250
parks and boulevards, act relative to	268
additional expenditure for, authorized	311
park police, powers of	265
parks, additional expenditure for, authorized	312
powers and duties of board	253
liability same as in relation to defects in public ways, etc.	253
powers of board, act conferring additional	262
property, may sell, and material not needed, etc.	263
lost or stolen, board authorized to sell, etc.	319

PARKS

PAGE

Metropolitan park commissioners, *continued*.

railroad company may take new location, etc.	258
railroads, board authorized to construct roadways across, etc.	326
Randolph, board authorized to take land in, as public reservation	325
rentals, etc., act to define disposition of money received from	301
Revere, Chelsea and Everett parkway in, board authorized to complete	294
Revere beach, act relative to taking by board	261
railroads, relocation of, along beach authorized	261
bath house, act authorizing board to restore and enlarge	281
rivers and ponds in park district, act to provide for improvement of banks of	275
rules and regulations, board to publish	265
penalty for violations	265
amended	297
Sachem brook, Quincy, board authorized to construct drawless bridge over	318
Saugus river, act authorizing board to construct bridge across	280
sewers, etc., act relative to laying across lands controlled by board	288
sinking funds, act relative to	260
street railway companies, board authorized to grant locations to	290
streets, may join with cities and towns in laying out public, etc.	267
Winthrop, exempt from certain costs for maintenance of park system	304
authorized to borrow beyond debt limit for construction of shore road	281
zoölogical garden, board authorized to establish in Middlesex fells	338

PASSAGEWAYS, private

board of health may require surface of, to be paved	164
shall hear objections of owner	164
justice of any court may enforce provisions	164
board may order vacant land on, to be cleaned	165
may clean same at owner's expense	165
expense of work, how paid	165
to be lien upon estate, etc.	165
penalty for obstructing or throwing rubbish in	165

PAUPERS

institutions registrar to investigate questions relative to settlement of	57
See POOR.	

PAWNBROKERS AND MONEY LENDERS

police commissioner may license	189, 191
fee for license	191
See LICENSING BOARD; POLICE.	

PENAL AND REFORMATORY INSTITUTIONS. See PUBLIC INSTITUTIONS.

PHYSICAL TRAINING

school committee to conduct, during summer vacation, etc.	201
may use gymnasias or buildings under control of park commissioners, provided	201
city may establish gymnasium in each ward of the city	202

PICNIC GROVES, Etc.

how licensed	189
------------------------	-----

PICNIC GROVES, Etc., *continued.*

PAGE

penalty for maintaining, without license	190
fee for license	191
licensing vested in licensing board	245
See POLICE.	

PLAYGROUNDS, Etc.

street commissioners may take land for	177
damages for taking, how determined	177
commissioners to file description of land taken	177
damages for taking, how paid	177
park commissioners may take land for system of, provided, etc.	178
provisions of law applicable	178
may make rules and regulations	178
penalty for violations	178
See PARKS.	

✓POLICE

police commissioner, governor to appoint	231
term of office of	231
vacancy how filled	231
removal of	231
to appoint secretary	231
exempt from civil service law	231
duties of	231
term of office of	231
removal of	231
salary of commissioner	232
salary of secretary	232
city to provide rooms, etc., for	232
city to provide accommodations for police	232
buildings and property to be under control of commissioner	232
commissioner may employ clerks, etc.	232
city to pay all expenses	232
may employ legal assistance	232
city to pay expense	232
commissioner authorized to appoint and organize police of city	232
to appoint superintendent, deputy superintendent, captains, etc.	232
to make rules and regulations	232
to appoint trial board	232
how composed	232
trial board to hear complaints against members of force	232
to report findings to commissioner	232
commissioner to review same and act thereon	232
powers of commissioner	232
to sign all licenses issued by him	232
tenure of office and powers of members of force	233
rules and regulations of former board to continue until, etc.	233
constables, police to have powers of	233
watchmen, police to have powers of	233
patrolmen, number of, limited	233
pay of, not to be changed except	233
superintendent, commissioner to fix salary of	233
acting commissioner, commissioner may designate member of force to be, ...	233
superintendent, etc., to act in absence of commissioner	233
shall receive no extra compensation	233

POLICE, *continued.*

PAGE

to make annual report to governor	234
records, open to inspection, etc.	234
commissioner may appoint additional police officers	241
arrests, commissioner to report number of monthly, to prison commis- sioners	242
report to be classified, etc.	242
penalty for neglect	242
billiard and pool tables, etc., may be licensed	188, 191
penalty for using, without license	188
blasting, near highway, not to be done without license	188
penalty for, without license	188
bowling alleys, may be licensed	188, 191
penalty for using without license	188
corporations, secretary of state may forward list of, applying for incor- poration, to commissioner for investigation	242, 243
commissioner to report facts as ascertained to secretary of state	243
secretary of state may refuse to issue certificate	243
conductors and motormen, etc., of streets cars, to grant licenses to	198
club, selling liquor, etc., on premises of, to be cause for revocation of charter	243
seizure of liquor or vessels, etc., on premises, to be cause for revoca- tion of charter	242
secretary of state to publish notice of such action	243
dogs, mayor to issue warrant to police officers to seize stray	192
fire, penalty for carrying through streets	195
fireworks, not to be sold without license.	195
Faneuil Hall market, police for	232, 233
gunpowder, city council to establish rules relative to transportation of, 192, 193, 194	
harbor master and assistants, commissioner to appoint, from police force.	242
powers and duties of	242
commissioner may require them to perform police duties	242
pay of	242
to enforce laws relating to the harbor	242
to prosecute all violations thereof	242
to protect harbor	242
to regulate anchorage of vessels, etc.	242
headquarters, etc., for department, city may erect and furnish build- ing for	238
site and plans, etc., to be approved by commissioner and mayor	238
commissioner may take land for purpose	238
to file statement in registry of deeds	238, 239
may take bond from owner of land	239
damages for taking, how determined	239
city to pay	239
owner may have damages determined by jury	239
health, detail of police to be furnished to board of	162
services of, to be paid for by said board	162
horses, auction sales of, regulated	196
house of detention for women, commissioner may maintain	239
matron and assistants, commissioner to appoint	239
salaries of, to be fixed by city council and commissioner.	239
qualifications of	239

POLICE

PAGE

house of detention for women, <i>continued.</i>	
expenses to be paid by city	239
may be removed by commissioner	239
matron to appoint assistants	239
either matron or assistant to be on duty during day and night	240
police officers to render assistance	240
matron may send to police station for assistance	240
commissioner may designate police station as house of detention	240
may discontinue same	240
shall appoint matrons for	240
police matron, qualifications and tenure of office of	240
commissioner may remove	240
compensation of, how fixed	240
must reside within reasonable distance of police station	240
must arrange hours so as to respond to call at any hour of day or night	240
one to be at station constantly ready for service	240
to have entire charge of women in station under arrest	240
may call on officer in command for assistance	240
subject to authority of commissioner	240
not subject to control of police, except officer in command	240
commissioner to provide accommodations for women in stations	241
duties of matron	241
officer to summon when woman is brought to station	241
if no matron, woman to be removed to nearest station where, is attached	241
city to pay expense of removal	241
"police station" or "station," definition of terms	241
"woman" or "women," definition of terms	241
innholders and common victualers, may grant licenses to	188
no fee for license	189
license to specify street and number of building	189
licensee not protected in any other place	189
expiration of license	189
intelligence offices, may grant licenses to	189
junk dealers, licenses to	191
lamps, board of aldermen to provide street	198
liquor licenses, commissioner to report to licensing board violations of conditions of	243
shall give notice to licensee	243
to furnish information to licensing board relative to character, etc., of applicants for	243
lockup, commissioner to appoint keeper	242
penalty for neglect	242
minors, aldermen and school committee may grant licenses to	189
money lenders, may grant licenses to	189
park police, to appoint and have control of	232, 233
pawnbrokers, may grant licenses to	189
pension, commissioner may retire disabled members, etc., of department on	236
no member to be placed on pension roll unless	236
amount of, in case of total disability	236
amount of, for fifteen or more years of service	237

POLICE

PAGE

pension, continued.

amount of, for former members of department on pension roll	237
annuity to widow of deceased member of department, amount payable	237
commissioner may retire and pension any member after twenty years of service	237
may retire and pension any member who is sixty-five years of age,	237
action to be approved by mayor	237
veterans not to be retired at such age except at their own request,	237
amount of pension allowed	237
to be paid by city	237
veterans, commissioner to retire and pension upon their own request, at age of sixty years or	237, 238
amount of such pension	238
to be paid by city	238
members, engineers or firemen may be retired and pensioned after twenty-five years of service or at age of sixty years	238
amount of such pension	238
to be paid by city	238
commissioner may call on any person pensioned for service in case of emergency	238
person to receive full pay during service	238
effect of preceding sections	238
picnic groves, commissioner may license	189, 191
private detectives	
commissioner may license	188
fee for license	188
to give bond with sureties	188
shall not have powers of constables	188
penalty for acting without license	188
police signal system, commissioner authorized to maintain	236
to provide patrol wagons, etc., for	236
expense to be paid by city	236
de vices and fixtures, commissioner authorized to attach to posts and structures, etc., now or hereafter erected in city	236
not to attach to poles of fire department, except	236
same privileges in respect to underground wires	236
provisions of law to apply to members of police signal system	238
city council, provisions not to take effect until accepted by	238
relief from duty, members to be allowed, once in fifteen days	241
commissioner to determine time and manner of	241
members relieved to be exempt from police service for the time	241
if deprived of period of relief, time so lost to be made up	241
reserve police, commissioner may appoint	235
may remove same	235
powers and duties of	235
appointment of, to regular force	235
compensation of	235
right of way, to have through streets of city, etc.	244
penalty for obstructing	244
riot, etc., mayor authorized to assume control of police in case of	234
to issue proclamation, etc.	234
commissioner to execute orders of	234

POLICE

PAGE

riot, etc., *continued*.

commissioner or mayor may suspend licenses during	244
penalty for selling during such suspension	244
second-hand articles, license to dealers in	191
skating rinks, may license	190, 191
smoke nuisance, board of health to restrict	197
special patrolmen, commissioner may appoint upon emergency, etc.	233
to serve without pay	233
powers and duties of	233, 234
railroad and special police, commissioner may appoint	235
city departments, may appoint, for	235
corporations, etc., may appoint for	235
corporations, etc., liable for misconduct of officer	235
term of office and powers of	235
appointments, commissioner to keep record of	235
may revoke at any time	235
tenure of office of previously appointed	236
election days, special officers for commissioner, may appoint	236
compensation of	236
theatres and public halls, mayor to license	190
water board, police for	232
to be considered regular police officers	232, 233
veterans, not disqualified on account of age, etc.	233

POOL TABLES, Etc.

may be licensed	188, 191
penalty for using without license	188
fee for license	191
record	191
other buildings	189, 191

POOR

city council may appropriate money for relief of	34
--	----

POOR DEPARTMENT. See PUBLIC INSTITUTIONS.

overseers of poor, to be appointed by mayor	63
term of office of	63
vacancies, how filled	64
may be removed by mayor for cause	64
organization of overseers	64
shall choose chairman and subordinates	64
shall define duties and fix salaries of same	64
shall not be interested in any contract with department	64
shall make reports to city council	64
incorporation of overseers of poor	64
to have charge of Boylston fund, etc.	64
may bind out persons receiving benefits of said fund	64
authorized to hold property not exceeding one million dollars	
in amount	64
trustees of Charlestown Poor's Fund, how composed	65
shall manage funds for relief of poor of Charlestown	65
powers and duties of trustees	65
may hold property, etc., and have management of poor funds	65
may dispose of property, etc.	65

POSTS

in public streets, signs not to be placed on	222
See STREETS.	

	PAGE
PRIMARIES, PARTY	
nomination of candidates at	28
filling vacancies	28
papers of candidates	29
ballots and returns	29
PRIVATE WAYS	
street commissioners may lay out	221
See STREETS .	
PRIVIES	
regulations in regard to. See HEALTH .	
PUBLIC GARDEN	
buildings not to be erected on	179
city hall, city may erect, on	179
PUBLIC INSTITUTIONS	
<i>Pauper Institutions Department.</i>	
to be in charge of board of trustees	61
trustees to be appointed by mayor	61
not subject to confirmation by aldermen	61
term of office of	61
to serve without compensation	61
shall not be interested in any contract with the department	61
vacancies in board, how filled	61
organization of board	62
shall choose chairman and secretary	62
city may take and hold property bequeathed to department	62
trustees to apply and dispose of bequests	62
to have charge of poor of city and institutions in which they are confined	62
powers and duties of trustees	62
superintendents of almshouses may make rules and punish inmates for violation thereof	62
<i>Penal Institutions Department</i>	
to be in charge of commissioner	62
commissioner to be appointed by mayor	62
not subject to confirmation by aldermen	62
term of office of	62
salary of	62
may appoint assistant and secretary	63
appointments to be exempt from civil service law	63
veterans not to be removed from department except, etc.	63
commissioner to have charge of Deer Island and House of Correction	63
powers and duties of commissioner	63, 181
city may take and hold property bequeathed to department	63
commissioner to apply and dispose of bequests, etc.	63
may permit person imprisoned for drunkenness to be at liberty	181
good conduct, permits to prisoners for, to be issued by penal commissioner	182
permits may be revoked at any time	182
solitary confinement, commissioner may cause reformatory prisoners to be kept in	182
probation commissioner may release prisoner on, when	182
may prescribe conditions of release and require bond	182
surety on bond, may at any time surrender prisoner	182

PUBLIC INSTITUTIONS, *continued.*

PAGE

intoxicating liquor, commissioner may remove any officer using	182
commissioner to make annual report	182
penalty for neglect	182
shall make rules, etc.	183
shall submit same to city council	183
shall appoint master of house of correction and examine his accounts	181
board of inmates, commissioner to determine amount master shall receive for	181
compensation of master, city council to determine	181
commissioner may discharge inmate after six months	181
may permit prisoners in house of correction to be at liberty, when	181
laws governing	183
expense of maintenance to be paid by city	183
tools, materials, etc., city may advance money for	183
amounts to be expended by master	183
master shall provide bedding, clothing, etc., for provisions	183
shall present account to city auditor	183
shall furnish specific rations, etc., to prisoners when directed by the mayor, ...	184
penalty for neglect	184
instruction to prisoners may be furnished	184
parental school	
purpose of	184
to be under charge of trustees for children	184
to be deemed county truant school	184
school committee to visit	184
to supervise studies therein	184
teachers to hold certificate from school committee	184
inmate may be committed to Lyman School for boys or Massa- chusetts reformatory, when	184
releases from parental school, how governed	184
shall be made by trustees for children	184
trustees may permit any child to be at liberty, etc.	184
permit may be revoked	185
child to be arrested and returned to	185
costs of arrest to be paid by city	185
tuition of children out of city, how paid	185
transportation to be paid by city	185
settlements to be made annually	185
Suffolk School for Boys	
trustees to admit boys committed to	185, 186
sentence of boys to	186
trustees may bind out minors committed to	186
may discharge boys from	186
may remit punishment and place boys on probation	186
if conditions are violated, boys to be arrested and remanded	186

PUBLIC SQUARES

buildings not to be erected on	179
--	-----

PUBLIC WORKS, BUILDINGS, Etc.

city officers to have care and custody of.	38
--	----

Q.

QUARANTINE OF VESSELS

board of health to have powers and duties relative to	52
---	----

R.

	PAGE
RAILROADS	
aldermen to have powers of railroad commissioners	30
not to be laid out over any portion of public park except, etc.	179
railroad commissioners — preliminary plans of elevated railways to be filed with for approval	499
shall examine same with reference to strength and safety of structure, etc.	499
railroad crossings, board to determine manner of, if parties cannot agree,	500
RANDIDGE TRUST FUND	
income of, how applied	26
RANDOLPH, town of	
metropolitan park commission authorized to take land in, as public reser- vation in	325
REGISTRY DEPARTMENT	
to be in charge of city registrar	66
to be appointed by mayor	66
term of office of	66
powers and duties of	66
shall appoint two assistants	66
assistants may perform duties of city registrar in his absence	66
city registrar may pay fees to persons making returns required by law	66
to perform duties imposed on clerks of cities, etc.	66
shall have an official seal	66
department books or papers may be placed in charge of city registrar	66
REVERE, town of	
expense for highways and bridges in, not to be assessed upon County of Suffolk, or cities of Boston or Chelsea	148
parkway in, metropolitan park commission authorized to complete	294
addition of, to north metropolitan sewerage system	399
REVERE BEACH	
relocation of railroad along, authorized	256
act relative to taking for park system	261
metropolitan park commission authorized to restore and enlarge bath house	281
See PARKS.	
ROXBURY, city of	
territorial limits	2

S.

SACHEM BROOK (Quincy)	
metropolitan park commission authorized to construct drawless bridge over	318
SALARIES. See TITLES OF CITY OFFICERS.	
SAUGUS RIVER	
metropolitan park commission authorized to construct bridge across,	280
SCHOOLHOUSE DEPARTMENT. See SCHOOLS.	
SCHOOLS	
school committee, election of	72
members of city council ineligible	72
term of office of school committee	72
to serve without compensation	72
vacancies, how filled	73
to be final judge of qualification and election of members	73

SCHOOLS

PAGE

school committee, <i>continued</i> .	
organization of, and quorum	73
shall choose secretary, auditor, business agent and other subordi- nates	73
business agent to be exempt from civil service examination	73
powers and duties of school committee	73
to have care of public schools	73
incorporation of	74
duties, liabilities and corporate powers	74
shall hold funds and property bequeathed, etc., for benefit of teachers and their families	74
and for lectures and educational purposes	74
shall hold Teachers' Waterston fund	74
shall hold Charlestown school trust fund	74
effect of votes, appropriations, making	78
shall certify amount of, to assessors	78
assessors shall include same in amount to be raised by taxation	78
arms, governor authorized to issue for use of English High and Latin schools	200
city held responsible for	200
engineers, janitors, truant officers, etc., how classified	200
may appoint janitors for school houses and fix their compensation, ...	73
money, orders involving expenditure of, to be approved by mayor	24
proceedings in case of mayor's veto	25
nurse, school committee shall appoint one supervising female, and district female nurses	74
shall assist medical inspector	74
qualifications of nurses	74
parental school, school committee to visit	184
to supervise studies therein	184
sale, board of, how constituted	78
authorized to sell land or buildings not needed for school purposes, ...	78
mayor to execute deed	78
disposition of proceeds	79
superintendent of schools, school committee shall elect	73
shall elect assistant superintendents	73
vacancies, to be filled	73
shall define duties and fix compensation of	73
may remove them for cause	73
no member of, to hold office of superintendent or assistant superintendent of schools	73
superintendent and assistant superintendents to be known as board of superintendents	73
superintendent to preside at meetings of board	73
powers and duties of board to be defined by school committee	73
majority of school committee may elect superintendent, assistant super- intendents and masters of schools, etc.	74
teachers, school committee may elect and discharge, and fix their com- pensation	73
truants, school for in Suffolk County	184
unexpended balances to be added to appropriation for ensuing year	78

Schoolhouse Department.

to be in charge of board of commissioners	75
---	----

SCHOOLS, *continued.*

	PAGE
commissioners to be appointed by mayor	75
term of office of	75
vacancies in board, how filled	75
salary of	75
expenses of, how paid	75
shall make annual report to mayor	75
powers and duties of	75
additional school accommodations, school committee to designate annually, necessary	75
secretary to notify schoolhouse commissioners of action	76
commissioners to certify within month amount required for such additional accommodations	76
proceedings in regard to	76
city treasurer may issue bonds for purpose	76
amount of bonds and rate of interest	76
orders for issue of bonds to be approved by mayor	76
portion of amount of bonds issued in 1907 and 1908 not to be included within limit of indebtedness of the city	76
alterations and repairs, shall make on school buildings	75
shall direct plans for construction, etc., of school buildings	75
may employ architects	75
new school buildings, etc., may make appropriation for	77
appropriations shall not exceed sum of three dollars and forty-six cents per thousand of city's valuation	78
division of appropriations	76
land, shall select for school buildings and yards	75
shall request street commissioners to take such land	75
shall advertise for	77
shall give public hearings as to suitableness of offered, for sale	77
may select, with approval of mayor	77
shall not proceed until superintendent of schools has submitted his opinion of plans	77
board of street commissioners shall take, for school purposes	75, 77
Franklin Union, city authorized to maintain	200
industrial school, city authorized to maintain	201
physical training, school committee to provide for	201
may use buildings under control of park commissioners, etc.	201
city may establish public gymnasium in each ward of city	202
retirement fund for teachers, how composed, control of and payments from, how made	202, 203, 204
Normal school, committee empowered to maintain	200
to provide instruction in connection with, etc.	200
men may be admitted to, etc.	200

School Teachers' Retirement Fund.

how composed	202
to be expended by board of trustees	202
composition of board of trustees	202
how chosen	202
organization of	202
may fill vacancies	202
board to have control of fund and invest same	202
to receive applications for annuities and direct payment of same	202

SCHOOLS, continued.

board to keep full record of receipts and disbursements	202
make annual report	202
to serve without compensation	202
termination of membership	203
city treasurer to be custodian of fund	203
may sell bonds of city to	43
to make payments as ordered by trustees	203
compensation for services of, and clerk hire	203
school committee to appropriate such sum	203
teachers' salaries, sums to be reserved from	203
annuities to retired teachers, how paid	203
conditions in regard to same	203
may be paid to teachers who have become incapacitated for teaching, etc.	203
to be uniform in amount except	203
not to be paid unless teacher has contributed to fund	203
portion of payments to fund may be refunded to teacher who shall retire, etc.	204
provisions binding on all teachers, etc.	204
"teacher," definition of term	204

SCIGLIANO PARK. See **PARKS.**

SECOND-HAND ARTICLES, dealers in

how licensed	191, 196, 197
regulations in regard to purchase and sale of	196, 197
dealers to keep record of purchase of	196
book to be open to inspection by mayor, etc.	197
sign to be displayed in shop	197
shall not purchase of minor	197
regulations to be incorporated in license	197
penalty for violation or carrying on business without license	197

SEWERAGE, metropolitan system of

board of commissioners, governor to appoint	342
term of office of	342
vacancies in board, how filled	343
salary of members	343
organization of board	343
shall elect clerk and appoint officials, etc.	343
to be furnished an office in Boston	343
to construct system of sewerage for district	343
may take lands, waterways, etc.	343
damages for taking, how determined	344
appropriations:	
act relative to, for maintenance of metropolitan park, sewer and water districts	336, 411
assessments:	
apportionment of, upon cities and towns in metropolitan district,	406, 409
bonds, redemption of	347
of certain officials, approval of	406
of contractors, act relative to	397
Charles river and Neponset river systems, board authorized to connect with Boston sewers	369
payment for use of sewers, how determined	369

SEWERAGE, *continued.*

	PAGE
to consider and report on high-level system for	379
authorized to make plans and surveys, etc.	380
expense to be assessed upon cities and towns, comprised within said systems	380
board to report to general court	381
Charles and Neponset river valleys (south metropolitan system), board authorized to construct high-level sewer for	384
cities and towns included in system	384
board authorized to take lands, etc.	384
commission, supreme judicial court to appoint, to apportion cost of metropolitan sewerage system, ...	346, 359, 362, 369, 372, 374, 378, 383, 388, 391
compensation of, court to determine, ...	366, 375, 378, 379, 383, 389, 391
consolidation of metropolitan water board and metropolitan sewerage commissions, act providing for	394, 449
damages, commonwealth to save cities and towns harmless against	356
drainage, act relative to separate systems of, for surface water and sewage, ...	404
enforcement of provisions of act	347, 352, 355, 360
high-level sewer for Charles and Neponset river valleys, additional loan for, board to determine location, etc., above Charles river valley	403
additional loan for	405
lands, commission authorized to take easement in, waterways, etc.	347
may take, etc., in fee	356
to record description of, in registry of deeds	356
damages to be paid by commonwealth	357
owner may apply for jury to determine	357
taking of land by board, act relative to	398
loan to meet expenses, treasurer to issue certificates, 345, 350, 353, 358, 377, 387 apportionment of interest and sinking fund requirements, ...	346, 351, 352, 354, 359, 374, 378, 388
to be included in annual state tax of each city and town, ...	347, 352, 355, 359, 375, 379, 388
sinking funds act, to authorize consolidation of	381
metropolitan water and sewerage board, established	394, 449
money, advances of to commission, act authorizing	349, 397
disposition of, received from commission by treasurer	348
Neponset river valley, act to provide system of sewage disposal for	355
board authorized to construct main sewers, etc.	355
may take sewers built by city of Boston, between Granite bridge and Central avenue	355
may carry sewer under or over water courses and highways, etc.	356
sewer to be extended into town of Milton	363
advances of money to board, act authorizing	363
Neponset valley sewer, loan to meet expenses of	364
apportionment of interest, etc., how determined	365
to be included in annual state tax of city and town	366
enforcement of provisions of act	366
systems to connect with Boston sewers	369
payment for use of sewers, how agreed upon	369
supreme court to appoint commission to determine sum	369
loan authorized to meet expenses of system	373
treasurer to issue certificates	373

SEWERAGE

PAGE

Neponset river valley, *continued*.

interest and sinking fund requirements, how apportioned	374
additional loan for, authorized	381
interest and sinking fund requirements, how paid	382
supreme court to appoint commissioners to determine amounts	383
amounts to be included in annual state tax of cities and towns	383
compensation of commissioners, supreme court to fix	383
additional loan to meet expense of sewers in	402
north metropolitan system, additional loan for	405
penalty for injury to sewers or property, etc.	357, 386
property, board authorized to sell, taken for sewerage purposes	350
board may sell, no longer needed	358, 386
real estate to be sold subject to easements, etc.	358
proceeds of sales to be paid into state treasury	358
premiums, from sale of loan bonds, act relative to	408
reports of board, act relative to	407
sewage, board authorized to discharge from its main sewer into Boston system	357
compensation for such discharge, how determined and paid	357
local sewers to be connected with main sewer	357
sewers, authorized to take, built by city, between Granite bridge and Central avenue	354
may discharge sewage from Neponset river valley sewer into sewerage system of	357
authorized to connect Charles river and may carry over or under water courses and highways	385
south metropolitan sewer, act to provide for extension of, through districts of West Roxbury, Brookline and Brighton	410
loan to meet expense incurred	410
streets, board to restore, etc., to good condition	356
water courses and highways, board may charge course or location of	356, 358
Belmont, board to provide additional outlet for sewage of	402
loan to meet expense, treasurer to issue certificates	403
Chelsea and Everett, board to provide additional outlets for sewage of	392
cities may make connections with sewers constructed by board	392
loan to meet expense, treasurer to issue certificates	392
interest and sinking fund requirements, how paid	393
Everett and Malden, commissioners to provide outlet for sewage of	375
may take land, sewers, etc.	376
loan to meet expenses, treasurer to issue certificates	376
Lexington, portion of town to be added to metropolitan system	370
board to provide outlet at town line near Massachusetts avenue	370
may take land, etc.	371
loan to meet expenses, treasurer to issue certificates	371
interest and sinking fund requirements, how apportioned	372
act not to take effect until accepted by town of Lexington	373
Malden, act to provide for extension of metropolitan sewer in	407
Marlborough, act authorizing to incur indebtedness for sewerage purposes and to protect metropolitan water supply	465
Melrose, board authorized to take and connect with system	361
loan to meet expense, treasurer to issue certificates	361
apportionment of interest, etc., how determined	362
Newton and Brookline, board to provide additional sewerage facilities for, ...	395
loan to meet expense, treasurer to issue certificates	396

SEWERAGE, *continued.*

PAGE

Revere, addition of, to north metropolitan sewerage system	399
board to provide outlets at town line	400
loan to meet expense, treasurer to issue certificates	400
interest and sinking fund requirements, how paid, etc.	401
Revere to be included in apportionment	401
Stoneham, act to provide additional outlet for sewerage of	368
loan for construction of, treasurer to issue certificates	368
interest, etc., how paid	369
Wakefield, portion of to be added to metropolitan system	360
loan authorized to meet cost of sewerage system for	366
treasurer to issue certificates, etc.	367
remaining part of, added to north metropolitan sewerage system	389
loan to meet expense, treasurer to issue certificates	390
interest and sinking fund requirements, how apportioned	391
Watertown, cost of siphon under Charles river to be refunded to	394

SEWERS

board of street commissioners to lay out	68
to award damages and estimate benefits on account of	68
sewerage works, city council may borrow money for construction of	204
may appropriate money for maintenance of	204
"sewerage work," what term shall include	205, 209
superintendent of streets may construct	205, 206
to file statement of intention to construct	205
loans for connections to be within debt limits	205
street commissioners may order construction of, etc.	205
may take land for purpose	205
shall file statement of taking	205
assessments, cost of construction to be assessed upon estates benefited	207
invalid, etc., may be reassessed	207
to be lien upon estates	207
collection of	207
board may assess portion of cost upon estates connected, provided, etc.	207
assessments may be revised and corrected	207
subject to appeal to superior court	207
owner may apply for revision of assessment, provided	207
abatement of assessments	207
to be repaid if assessment is paid under protest	207
owner may pay part of assessment, and proportionate part of estate be relieved from lien	208
remainder of assessment to continue as lien	208
street commissioners may abate or suspend assessments	208
assessment shall continue a lien on estate	208
collection to be suspended on land exempt from taxation	208
shall be collected when land ceases to be exempt	208
Charles river basin, city may expend sums for sewerage works in watershed areas, tributary to	208
damages sustained by owner, how determined	206
Dorchester bay, sewerage from main sewer, etc., not to be discharged into	209
enforcement of provisions	208, 209
loans, sewerage, how made	206
limit of amount of	206
term of	206

SEWERS, continued.

PAGE

Newton, city of, may discharge sewerage into Boston sewers upon agreement by the two cities	209
act relative to laying across park lands	288
sewerage work, penalty for injuring, etc.	207
or polluting natural water course	207, 210
Stony brook watershed, plans for sewerage works in, to be approved by special board	209
to remain under control of city	210
surface drainage, expense of sewers for, to be borne wholly by city	208
unlawful use, etc., of sewers, injunction may be granted against	210

SHERIFF OF COUNTY OF SUFFOLK

finer and fees received by, to be paid to city collector	148
to make detailed statements of	148
to receive fines imposed by court	149
shall pay same to city collector	149
shall render account of, under oath	149
penalty for neglect	149

SIDEWALKS

board of aldermen may order construction of	210
may determine kind of material to be used	210
may assess portion of expense upon abutters	210
assessments to be lien upon land	211
collection of	211
to be afterwards maintained by city	211
assessments, other conditions	211
damages, how determined	211
owner may pay part of assessment	211
street commissioners may relieve estate from proportionate part of lien, remaining part of assessment to continue lien	211
unaccepted streets, owners of land on, to construct sidewalks in	211
mayor and aldermen to construct if owners neglect	211
expense to be assessed upon owners	211
assessments to be lien on land	211
not to be construed as acceptance of street by the city	212

SIGNS, etc.

projecting into public street, regulations in regard to	222
See STREETS.	

SINKING FUNDS

commissioners to certify to city council in regard to loans	41
amount of assessments received for public improvements to be paid to commissioners	220
income of water department to be applied in part to meet requirements of	70
sums received by city for taking waterworks to be paid to commissioners of	70

SIPPIO TABLES

may be licensed	188, 191
penalty for using without license	188
fee for license	191

SKATING RINKS

how licensed	190, 191
penalty for maintaining without license	190
fee for license	191

	PAGE
SKATING RINKS, <i>continued.</i>	
licensing, vested in licensing board	245
See POLICE.	
SLEIGHS, SLEDS, Etc.	
city council may regulate size and shape of, and their loads	222
SMOKE	
board of health to have powers and duties relative to abatement of	52
not to be discharged from building except under permit	197
board of health to enforce regulation	197
penalty for violation	197
complaints on account of, board of health to be notified	197
injunction to restrain operation of furnaces, etc., board of health may apply for	198
SOLDIERS' RELIEF DEPARTMENT	
to be in charge of commissioner	67
commissioner to be appointed by mayor	67
term of office of	67
salary of	67
powers and duties of	67
SOMERVILLE, city of	
authorized to lay out and maintain parkway from Tufts' park to Mystic river	443
SPECTACLE ISLAND	
no person to build fire on, without permission, etc.	159
penalty for offense	159
SPOT POND BROOK	
act to provide for improvement of	467
STABLES	
buildings not to be used for, unless authorized by board of health	93
public hearing to be given	93
building not to be used for, unless	166
penalty for violation	166
effect of license	166
See BUILDINGS.	
STEAM BOILERS, etc.	
discharging smoke, board of health may apply for injunction	198
See BUILDINGS.	
STERLING, town of	
owners of property in, may claim damages, etc.	428
commonwealth to pay sum to, annually	429
STONEHAM, town of	
act to provide additional outlet for sewage of	368
loan for construction of, treasurer to issue certificates	368
interest, etc., how paid	369
act to supply, with water	432
STONY BROOK, watershed of	
plan for sewerage work in, to be approved by special board, etc.	209
to remain under control of city	210
city to construct conduit for, from Huntington avenue to Charles river	316
STREAMS	
may be filled up or diverted for sewerage purposes	205
STREET CARS. See STREET RAILWAYS.	
STREET COMMISSIONERS, board of. See STREETS.	

STREET RAILWAYS

PAGE

police commissioner to license street car conductors and motormen, etc.,	198
may revoke such license for cause	198
continuance of license	198
fee for license	198
commissioner to keep record of licenses	198
to be open to inspection of president, etc., of street railway	198
notice of revocation of license to be transmitted to president, etc.	198
police to enforce conformity to law by licensees	199
shall report violations.	199
penalty for acting without license	199
reissue of license after revocation	199
metropolitan park commission authorized to grant locations to, in park system	290
West End Street Railway Company, Boston Elevated Railway Company, authorized to lease property and franchises of	502
terms of lease to be approved by railroad commissioners	502
assignment of rights in subway to Boston Elevated Railway Company	502
operation of subway subject to consent of	502

STREETS

board of street commissioners, to be elected	67
term of office of	68
vacancies in board, how filled	68
salary of commissioners	68
commissioners shall appoint clerk	68
clerk to be sworn	68
salary of	68
may be removed for cause	68
commissioners shall lay out highways, sewers, etc.	68
shall award damages and estimate benefits on account thereof	68
shall take land for school purposes	68
may make abatement of taxes and street watering assessments	68
actions for damages by reason of defect in, where may be brought	21
alleys, public, city not liable for defects in	225
shall prevent nuisance therein	225
assessments, owner of real estate may have amount of, determined by jury, jury to view premises if either party requests	218
costs of suit, how to be paid	218
judgment for city, when to be entered	218
excess of payment over amount determined to be repaid by city treasurer	218
interest on assessments, when to begin	218
apportioned, assessments to be, and included in tax bills	218
when parcel has been divided, etc.	218
collection of	218
interest, rate of, fixed	218
on estates exempt from taxation, not to be payable until estates cease to be so exempt	219
on real estate that has been divided may be apportioned, etc.	219
to be lien upon estates, provided, etc.	219
if part is paid, commissioners may relieve proportionate part of estate from lien	219
remainder of assessment to continue as lien	219
provisions of preceding sections not to apply, etc.	219

STREETS

PAGE

assessments, continued.

amounts of, received by city treasurer, to be paid to commissioners of sinking funds	220
interest and deficiency in sinking fund to be raised by taxation	220
benefit to estates, board to estimate	215
shall assess benefit on each parcel of land	217
assessment, if invalid, etc., may be reassessed	217
alienation of real estate not to affect reassessment	217
owner may file application within one year for revision	217
board may revise and reduce amount	217
excess of payment over revised amount to be repaid by city treasurer	217
benefit to real estate, board to determine within two years	217
contract, may do work by, or otherwise	216
mayor to approve same	216
contracts exceeding two thousand dollars in cost, proposals to be advertised for	216
proposals to be accompanied by bond, etc.	216
subject to public inspection	216
contracts to be in writing and approved by mayor	216
be deposited with city auditor	216
alterations in, how made	216
conduits constructed for drainage of lands, etc.	205
damages, shall pass order determining and awarding	215
board may make new awards	215
person aggrieved may apply for a jury to determine damages, etc..	215
East Boston ferries, city to maintain	85
may levy and collect tolls	85
expenses for sewers, water and gas pipes, etc., to be excluded, etc.	217
of laying out streets, etc., how paid	217
appropriations therefor to require two-thirds vote of city council	217
fire, penalty for carrying through streets	195
gas company, shall be notified of laying out street	216
if gas company neglects, shall furnish and lay pipes as prescribed in order	216
gas company to pay cost thereof	216
gas pipes in street, board to prescribe size of, etc.	215
hawkers and pedlers, police commissioner to designate streets and districts where, may stop or stand	224
penalty for violations	225
highways, laying out, etc., proceedings of street commissioners in regard to, to give public hearing	214
notice to be published in newspapers	215
order for improvement, board may pass, after hearing	215
order to prescribe lines, grades, etc., of	215
superintendent to remove obstructions, etc.	216
construct sewers, sidewalks, etc.	216
shall give notice that highway is to be constructed	216
no highway to be opened to public unless approved by commissioners	219, 220
highways shown on plans heretofore made, etc., to be laid out in accordance with such plans	220
work not to be done after fifteenth of November, unless	216, 217

STREETS, *continued.*

	PAGE
surface of highway not to be disturbed for two years, except	217
superintendent may permit openings after two years	217
library, land, may take for a, or engine house	68
proceedings upon taking of land	68
damage for taking, how settled	68
loans for street construction, to be within debt limit	218
market limits, street commissioners may extend	169
may take land therefor	169
damages on account of, how determined	169
materials, city may furnish	216
merchandise in streets, commissioners may issue licenses for storage and sale of	223
application for license, form of	223
shall specify location, etc., and kind of merchandize to be stored or sold	223
shall procure consent of owner of premises, etc.	223
if in front of city property, consent of department to be obtained	223
applications from firms or corporations, form of	223
application to be sent to police commissioner	223
police commissioner to examine location	223
to report approval or disapproval to street commissioners	223
further action vested in street commissioners	224
term of licenses	224
may be renewed, suspended or revoked	224
fee for license	224
board may make additional charge for rent, when, etc.	224
board to keep records of such proceedings	224
records to be open to public under restrictions	224
open to mayor at all times	224
money, shall keep account of, received from licenses	224
employees receiving such money to give bond	224
money to be paid over to city collector	224
detailed statement to be made	224
to include summary in annual report	224
names of streets, commissioners to fix by vote	222
public hearing to be given	222
vote to take effect on laying out	222
shall be published	222
and certified by clerk of board to the register of deeds	222
aldermen to confirm changes in names of	222
changes to take effect on first day of March	222
to be published	222
and certified by city clerk to register of deeds	222
new street not to be assigned name of existing street, etc., except,	222
extension of, may be called by same name	222
orders to be recorded	215
order for improvement to be recorded in registry of deeds	215
such recording to constitute taking	215
to be null and void unless approved by mayor within three months,	215
public park, not to be laid out over any portion of, except, etc.	179
surveys and plans, city engineer to have custody of	50
street commissioners to prepare	212
may employ assistants and incur expense	213

STREETS

PAGE

surveys and plans, *continued*.

plans to be approved by mayor	213
to be filed in city engineer's office	213
board of survey, plans of, not affected	213
authority of plan, signatures on, to be <i>prima facie</i> evidence	213
street commissioners may make surveys of lands, etc.	213
damages to owners, how determined and paid	213
shall give public hearings	213
notice of, to be published in newspapers	213
street commissioners may make new plans, etc., after public notice and hearing	214
new plan to take place of any plan that has been made	214
private ways, commissioners may lay out when, etc.	221
board not prevented from ordering street to be paved, etc.	221
or assessing betterments on estates on	221
repairs, specific, on, commissioners may order	220
shall appoint public hearing and publish notice thereof	220, 221
after hearing, shall determine what action public necessity requires, ...	221
repairs to be ordered in accordance therewith	221
shall estimate damages sustained by owners of property	221
damages, how paid	221
repeal of statutes not to affect loans, etc., issued under authority of same, or acts of street commissioners under said statutes	220
or betterments assessed under same	220
or powers of street commissioners	220
sanitary division, commissioners authorized to take land, flats, etc., in Dorchester for	221
damages for taking, city to pay	222
how determined	222
sewerage works, may take land for	205
shall file statement of taking	205
superintendent of streets to construct	205, 206
damages to owner of land, how determined	205
street commissioners to assess cost of, upon estates benefited	207
may abate or apportion assessments	207
sewers, street commissioners may order construction of	205
water pipes, etc., to be placed as shown on such plans, provided, etc., ...	220
signs, not to be placed on post in public way	222
not to project more than one foot into	222
no other thing to project more than four feet into	222
nor any sign that is less than ten feet above sidewalk, except	222
permit for	223
penalty for violation	223
streams, may order to be filled up or diverted	205
superintendent of streets shall construct streets, etc.	69
to have charge of city ferries, etc.	69
to carry out orders of board	215
terms, definition of, used	
"highway"	214
"public alley"	214
"parcel of real estate"	214
vehicles, city council may regulate size and shape of, and their loads, ...	222
watering streets	
aldermen may divide city into watering districts	225

STREETS

PAGE

watering streets, *continued*.

may assess owners of estates for cost of	225
may provide that such districts be watered at expense of city, ...	225
assessment, amount of, to be determined by assessors	225
person aggrieved may apply to board of street commissioners	225
board may abate part or the whole thereof	225
city treasurer to repay amount if charge has been paid	225
collection of assessments for	225
Back street not to be taken for Charles river embankment	173
Beacon street, land on north side not to be taken for Charles river embankment	173
Canal street, widening of, for purposes of transit commission	494
Haverhill street, widening of, for purposes of transit commission	494
Rutherford avenue, width of part of, established, and height of buildings limited	146
Travers street, portion of, to be discontinued by transit commission	502

SUBORDINATES

definition of term	37
removal of	37
payment of money to widow of deceased, authorized	37

SUBWAYS

Cambridge street, act relative to connecting with East Boston tunnel	509
Washington street to Causeway street, commission to construct	509-516
trains to be removed from existing, upon completion of tunnel	514
city of Boston to own	516
Cambridge, Boston Elevated Railway Company authorized to construct in	519-534
east and west tunnel and subway, commission authorized to construct, ...	544
designated Riverbank subway	544

SUFFOLK, county of

city to provide public buildings for	147
to pay charges of, except	147
court house for Suffolk county	
to be in care of justices of supreme judicial court	147
justices to appoint custodian and other officers	147
may fix term of office of	147
may remove officers	148
shall fix compensation of	148
expenses for highways, etc., in Chelsea, Revere and Winthrop, not to be assessed upon	148
city auditor to be auditor of	148
bills against, to be audited and allowed by	148
salary of	148
clerks of courts and officers to pay fines and fees received to city collector, to make detailed statements of same	148
finer imposed to be certified by clerk of superior court	148
sheriff or deputies to receive same	149
shall pay same to city collector	149
clerks of municipal court to pay over to city collector, monthly, balance of money due	149
to render detailed account of	149
penalty for neglect	149
parental school to be deemed school for truants in	184

	PAGE
SUFFOLK SCHOOL FOR BOYS	
trustees to admit boys committed to	185, 186
sentence of boys to	186
trustees may bind out boys	186
may discharge boys from	186
may remit punishment and place boys on probation	186
if conditions are violated, boys to be arrested and remanded	186
See PUBLIC INSTITUTIONS.	
SUPPLIES, Etc.	
city council not to purchase	34

T.

TAXES	
city council shall direct method of assessment	34
limit of tax rate in city	43
mayor to appoint assessors of taxes	45
assessors to appoint assistants	45
compensation of assistants	45
assistants to be appointed in equal numbers from the two leading political parties	46
assessors shall include in tax levy the amount appropriated for school purposes	78
to determine amount of assessments for street watering	225
city collector, mayor to appoint annually	44
to give bond	44
compensation of	44
to collect and receive taxes and all assessments due the city	44
to pay over money to city treasurer	44
may appoint deputies, etc	44
deputies to give bonds	44
powers and duties of	44
fines and fees received by county officers to be paid to	148, 149
constables to issue warrants of	149
collector to suspend collection of sewer assessment on land exempt from taxation	208
shall collect same when land ceases to be exempt	208
board of street commissioners may abate	68

TENEMENT HOUSES. See BUILDINGS, also HEALTH.

THEATRES AND PUBLIC HALLS	
mayor to license	190
may require changes in building before granting license	190
person aggrieved may appeal to board of appeal	190
board to examine premises and hear parties	190
mayor to act in conformity to decision of board	190
mayor may revoke license	190
shall give notice of intention so to do	190
expiration of license	191
inspection of theatres, etc.	191
See BUILDINGS.	

TREASURER, city	
mayor to appoint annually	40
term of office of	41
to be treasurer of Suffolk county	41

TREASURER, city, continued.

	PAGE
may borrow money in anticipation of taxes	41
may use funds raised by loan	42
shall issue bonds of indebtedness of city	42
terms and interest on such bonds	42
to invite proposals for purchase of	43
to award loans with approval of mayor	43
to fix rate of interest on bonds	43
may sell bonds of city to Public School Teachers' Retirement Fund	43
to invest money received by trustees of city hospital	53
and have custody of securities	53
to invest money received by trustees of public library	58
to have custody of securities belonging to same	58
may issue bonds for school purposes	76
to pay fees to witnesses	148
constables to issue warrants of	149
to furnish copy of constable's bond to person applying therefor	150

TREES

in parks and parkways, park commissioners to have powers of aldermen concerning	178
---	-----

TRUANT OFFICERS

how classified	200
--------------------------	-----

TRUANTS

parental school deemed school for	184
---	-----

TRUCKS

city council may regulate size and shape of, and their loads	222
--	-----

TUBERCULOUS PATIENTS. See CONSUMPTIVES.

U.

UNDERTAKERS

board of health to license	166
may make regulations concerning	166
may establish fees of	167
no person to engage in business of without license	167
penalty for violations	167

UNITED STATES

building limit restrictions not to apply to buildings on land ceded to	89
--	----

URINALS

city may erect and maintain, for public use	167
damages on account of construction of, how ascertained	167
See HEALTH.	

V.

VEHICLES

city council may regulate size and shape of, and their loads	222
--	-----

VESSELS

in harbor

anchorage limits for, defined	157
harbor master to regulate anchorage of	157
may order removal of vessels	157
masters of, to have, properly trimmed at wharves	157
warps and lines, regulations in regard to	157
to have anchor watch and lights	158

	PAGE
VESSELS, <i>continued.</i>	
speed of steam, in, limited	158
penalty for violation of regulations	157, 158
harbor master to regulate anchorage of, in harbor	242
VETO, by mayor	
proceedings in case of	24, 25
three-fourths vote of school committee required to pass appropriations over mayor's	78

W.

WATER

department to be in charge of commissioner	69
commissioner to be appointed by mayor	69
term of office of	69
salary of	69
may appoint assistants and secretary	69
such appointments to be exempt from civil service law	70
powers and duties of commissioner	70
to protect purity of water supply	70
to fix water rates	70
to furnish and attach water meters	70
to construct aqueducts and lay water pipes	70
to take lands and water rights	70
income from waterworks to be applied to maintenance, and to meet interest and sinking fund requirements of loans and state assessment, etc.	70
sums received by city for taking waterworks to be paid to sinking fund commissioners	70
interest on bonds, how applied	43
expense of, to be met by loan or taxes	43
police commissioner to appoint and have charge of police employed by water board	232, 233
metropolitan supply, act to provide for	411
metropolitan water board, governor to appoint	411
term of office of	411
governor may remove	412
vacancies, how filled	412
salaries of	412
chairman, governor to designate	412
board to appoint secretary, engineer and other employees	412
board to construct and maintain system of metropolitan water works	412, 437
shall furnish water to cities and towns within district	412, 437, 446
sources of supply board may take water from	413
may purchase or sell property, etc.	417
may incur necessary expenses	417
may agree upon damages sustained by any city or town	417
damages owners of property may apply for jury to determine	417
appropriations, annual, for maintenance of metropolitan park, sewer and water districts, act relative to	477
aqueducts, etc., board may construct and lay and maintain pipes, etc.	416
may carry same over or under water courses, railroads and public ways	416

WATER, *continued.*

PAGE

assessments, apportionment of, upon cities and towns in metropolitan district	327, 470, 472, 474
treasurer authorized to borrow money in anticipation of	477, 481
bonds, contractors to furnish	428, 451
official bonds, approval of	471
burial grounds, action in case of flooding	415
citizens of commonwealth to have preference in employment	425
damages, act relative to suits on account of property taken by board	444
commissioner, to be appointed to hear parties, etc.	444
either party may apply for jury	444
parties to pay expenses	444
on account of takings of land, etc.	466
time extended for filing petitions	447, 452
enforcement of provisions of act, board to enforce, and rules, etc., made thereunder	424
courts to enforce provisions of act	424
penalty for violations	424
general laws, not inconsistent, to apply for purposes of act	425, 427
emergency purposes, act authorizing temporary taking of water by cities and towns for	449
expenses, apportionment of, to Boston and cities and towns in district,	421, 451
amounts to be included in annual state tax	422
health, state board of, authorized to make rules for protection of water supply	423
income, bonds and property, from sale of, how applied	420
from waterworks, how disposed of in each city and town	422
for water furnished outside district, how disposed of	478
if insufficient, balance to be raised by taxation or loan	423
interest and sinking fund requirements, how paid	420
lands, board authorized to convey and exchange, etc.	439
may convey to railroad company, etc.	415
board may make agreements with park commissioners, etc., relative to control of, etc.	434
loan, metropolitan water, treasurer to issue certificates	420
additional act to provide for	451, 473
local boards, powers and duties of	422
to have control of waterworks not taken by metropolitan board,	422
money, advances of, to board, act authorizing	454
received from cities and towns for admission to district, how disposed of	474
premiums from sale of bonds, how disposed of	473
purity, shall protect, of supply	412, 437, 446
railroads, may change location of, or discontinue parts of, and public ways	415
rates, to determine for furnishing	413, 422, 428, 437
report, to make annual, to general court	412, 472
reservoirs, to construct and raise highways to suitable grade	415
rules and regulations, publication of, posting of, to be deemed legal notice, evidence of notice	445
tide water, act to authorize laying of pipes on mains under or over	466
water supply and use of	
metropolitan water district, cities and towns included in,	412, 437, 446

WATER

PAGE

water supply and use of, <i>continued</i> .	
board to distribute and control use of water	422
may agree with cities and towns for furnishing water	417
cities and towns within ten miles of state house not to use water from	
other sources, except	423, 427
act relative to supplying certain cities and towns with water from	
metropolitan system	478
corruption of, or improper use of water supply prohibited	424
other uses of water allowed	424
measurement of water, board authorized to provide means for	461
to report to general court quantity of water supplied to each city	
and town	461
waste of water in cities and towns, act to prevent	479
water companies, board may furnish water to, owning water pipe	
system	445
Ashland, commonwealth to pay sum to town, annually	447
Boston, shall take waterworks of city of	414
may take other lands and property	414
to commence operation of Boston waterworks before January 1,	
1898	416
income from waterworks, how applied	438
Boylston and West Boylston, payments to, on account of taking waters	
of Nashua river	420, 425, 431
West Boylston, compensation of employees on account of loss of	
work, etc.	426
Boylston, compensation for damages in, by construction of	
metropolitan system	471
Clinton, board authorized to erect and maintain plant for disposal of	
sewage of	440
settlement of damages sustained by persons in	453
damages to, by construction of metropolitan system, act relative to, ...	475
Cochituate water-basin board required to improve condition of	454
Chestnut Hill reservoir, shall connect with water pipes of district	415
shall have exclusive control of Chestnut Hill reservoir and all	
ponds, reservoirs, etc., used by them in supplying water	416
Framingham, act to authorize relocation of public way in	476
Holden, commonwealth to pay sum to, annually, on account of con-	
struction of metropolitan system	476
Hopkinton, commonwealth to pay sum to, annually	455
Lancaster Mills, in Clinton, delivery of water for use of	416
Marblehead Water Company, act relative to purchase and sale of prop-	
erty of	434
Marlborough, authorized to provide sewerage and to protect purity of	
water supply	465, 467
Milton, act to supply town of, with water	456
Nashua river, towns upon, authorized to take waters of	423, 429
to pay proportion of cost of works	423, 429
board authorized to construct reservoir upon	414
Boston to be reimbursed for taking of waterworks	420, 425, 431
damages on account of reservoir upon, how determined and paid,	
.	418, 419, 440, 445
act relative to protecting purity of water supply from	464
Natick, authorized to enlarge and improve system of water supply	461

	PAGE
WATER	
Natick, <i>continued</i> .	
board authorized to sell certain property in, for widening railroad,	480
Spot-pond brook, act to provide for improvement of	467
Sterling, town of, owners of property in, may claim damages	428
commonwealth to pay sum to, annually	429
Stoneham, act to supply town of, with water	432
Wakefield, act to provide for supplying with water	462
Weston, board authorized to construct and maintain aqueduct from	
Sudbury reservoir to town of, and construct reservoir at end . . .	448
Winthrop, act to provide for water supply for	435
Worcester, act authorizing, to increase its water supply	458
WAGONS	
city council may regulate size and shape of, etc.	222
WAKEFIELD, town of	
portion to be added to metropolitan sewerage system	360
commissioners to provide outlet for sewage at town line in Greenwood .	361
may take and connect sewer in town of Melrose	361
loan to meet expenses, treasurer to issue certificates	361, 366, 367
apportionment of expense, how determined	362
remaining part of town included in sewerage system	389, 392
commissioners to provide outlet for sewage at town line	390
loan to meet expense, treasurer to issue certificates	390
interest and sinking fund requirements, how apportioned	391
act to provide for supplying with water	462
WARDS AND PRECINCTS	
division of city into	20
WARD'S POND	
city to have control of	179
WATER-CLOSETS.	
regulations in regard to. See BUILDINGS, also HEALTH.	
WATER COURSES	
may be taken and diverted for sewerage purposes	205
penalty for polluting or obstructing.	207
WATERSTON, ROBERT C.	
school committee to have charge of Teachers' Waterston Fund, left by,	74
WATERTOWN	
metropolitan park commission to investigate flow of Charles river above	
dam, at	294
metropolitan park commission authorized to maintain lower dam across	
Charles river, at	337
cost of siphon under Charles river to be refunded to	394
WAYS. See STREETS.	
WEST END STREET RAILWAY COMPANY	
use of Washington street subway and East Boston tunnel subject to	
rights of	514
WEST ROXBURY	
extension of south metropolitan sewer through, act to provide for . . .	410
WESTON, town of	
act authorizing construction of aqueduct from Sudbury reservoir to, and	
reservoir near end of aqueduct	448
WHARVES	
building limit, restrictions not to apply to	89
rafts, etc., not to be attached to, without permission	158

WINDOWS

regulations in regard to
See BUILDINGS, also HEALTH.

WINTHROP, town of

expense for highways and bridges in, not to be assessed upon county of Suffolk or cities of Boston or Chelsea	148
authorized to borrow beyond debt limit for construction of shore road, exempt from certain costs for maintenance of park system	281
act to provide for water supply for	304
	435

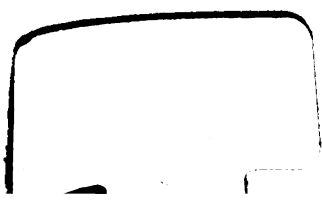
WIRES

to be in charge of commissioner of wires	71
commissioner to be appointed by mayor.	71
term of office of	71
appointment of must be confirmed by aldermen within sixty days, salary of	71
powers and duties of	71
shall have supervision of all wires, etc., in city	71
shall exercise powers of inspector of wires	71
shall remove poles and wires from streets in certain sections of city and cause wires to be placed underground	71
wires and poles forbidden in streets in district north of Dover and Berkeley streets	226
and in other streets designated by wire commissioner, except, etc., wires to be placed underground in streets outside of district	226
commissioner to specify streets.	226
shall cause owners to remove wires and poles	226
may grant permits for removal and placing wires underground	226
commissioner may require that wires, etc., in district be placed underground in any street before repaving.	227
to give public notice thereof	227
wires not to be placed in streets or conduits laid through, thereafter, without permission of mayor and aldermen	227
such portions to be reckoned as part of twenty miles of streets from which wires and poles are to be removed, etc.	227
may consent to placing feed and return wires in subway or tunnel or on elevated railroad	227
not to prevent persons from making necessary repairs or connections, etc., may regulate direction wires, etc., shall be run	228
wires on top of buildings to be at least eight feet above same	228
person required to remove wires, etc., shall furnish map to commissioner, etc.	227
commissioner may grant permission to deviate from requirements, subject to control of mayor and aldermen	228
copy of permit to be recorded in office of commissioner	228
record to be accessible to the public	228
commissioner may designate distances between overhead wires	228
provisions not to apply to, etc.	228
long distance telephone wire not to be deemed such, unless twenty-five miles in length	229
appeal, provisions relative to appeal to board of	89
board of appeal, how constituted	229
city engineer to be chairman	229
person aggrieved may make application to	229
board to give hearing thereon	229
may revoke or approve act of commissioner	229

	PAGE
WIRES, continued.	
buildings, wires in, person proposing to place, to notify commissioner	229
shall not turn current on wires until permission has been given by commissioner	229
commissioner to be sole judge of proper insulation and installation, ...	229
conductors and appliances, authorized to make safe as possible	229
commissioner may cause current to be shut off if in his opinion con- ductors or appliances are unsafe	229
enforcement of orders	229
structures on buildings to be maintained to satisfaction of commissioner, in case of neglect commissioner may remove, etc.	228
superintendent of streets to issue permits for opening streets, etc.	229
underground conduits, may grant permits for laying	227
WITNESSES, city treasurer to pay fees of	148
WOMEN	
house of detention for, under arrest, police commissioner to maintain	239
See POLICE.	
WORCESTER, city of	
act to authorize, to increase its water supply	458



JUL 1 3





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